SENATE

THURSDAY, *April 26, 1928*

The Chaplain, Rev. Zg Barney T. Phillips, D. D., offered the following prayer:

Almighty God and Heavenly Father, in whose being simplicity and mystery of life do meet together, cleanse our prayers with the sanctity of reason, and ennoble our reasonings with the majesty of prayer. Open our eyes, that we may see with cloudless vision through all the devious ways of self-worn paths the eternal highway of our God. Fill our hearts with such love toward Thee as will enable us through pity's tears to look upon the sorrows of mankind and to yield ourselves to the uplift of Thy children. Confirm in us the belief in the royalty of man and the sovereignty of citizenship, that in all things the matchless glory of this Republic may be revealed. Grant this, O Father, through Jesus Christ our Lord. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Friday, April 20, 1928, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had passed the bill (S. 1609) recognizing the heroic conduct, devotion to duty, and skill on the part of the officers and crews of the U. S. S. *Republic*, *American Trader*, *President Roosevelt*, *President Harding*, and the British steamship *Cameronia*, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the bill (S. 3437) to provide for the conservation of fish, and for other purposes, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 457. An act to create a board of local inspectors, Steamboat Inspection Service, at Hoquiam, Wash.;

H. R. 12733. An act to authorize the refund of certain taxes on distilled spirits;

H. R. 12899. An act authorizing the erection for the sole use of the Pan American Union of an office building on the square of land lying between Eighteenth Street, C Street, and Virginia Avenue NW., in the city of Washington, D. C.; and

H. R. 13171. An act authorizing the Secretary of the Treasury to accept a franchise from the government of the city of New York to change the routing of the pneumatic-tube service between the customhouse and the present appraisers' stores building, and for other purposes.

CALL OF THE ROLL

Mr. CURTIS. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Fess	Locher	Sheppard
Barkley	Fletcher	McKellar	Shortridge
Bayard	Frazier	McMaster	Simmons
Bingham	George	McNary	Smith
Black	Gerry	Mayfield	Smoot
Blaine	Gillett	Metcalf	Steck
Blease	Glass	Moses	Steiwer
Borah	Gould	Neely	Stephens
Bratton	Greene	Norbeck	Swanson
Brookhart	Hale	Norris	Thomas
Broussard	Harris	Nye	Tydings
Capper	Harrison	Oddie	Tyson
Caraway	Hayden	Overman	Vandenberg
Couzens	Heflin	Phipps	Wagner
Curtis	Howell	Pittman	Walsh, Mass.
Cutting	Johnson	Ransdell	Walsh, Mont.
Dale	Jones	Reed, Pa.	Warren
Deneen	Kendrick	Robinson, Ark.	Waterman
Dill	Keyes	Robinson, Ind.	Wheeler
Edge	King	Sackett	
Edwards	La Follette	Schall	

Mr. CURTIS. I was requested to announce that the Senator from West Virginia [Mr. GOFF] and the Senator from Idaho [Mr. GOODING] are detained in committee.

The VICE PRESIDENT. Eighty-two Senators having answered to their names, a quorum is present.

CONSERVATION OF FISH

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 3437) to provide for the conservation of fish, and for other purposes, which were, on page 1, line 4, to strike out "and directed"; on page 1, line 6, after the word "fish," to insert "occasioned"; on page 1, line 6, after the word "constructed," to insert "or maintained"; and on page 1, line 7, to strike out "under the Interior Department."

Mr. JONES. I move that the Senate concur in the amendments made by the House.

The motion was agreed to.

RECOGNITION OF HEROIC CONDUCT

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 1609) recognizing the heroic conduct, devotion to duty, and skill on the part of the officers and crews of the U. S. S. *Republic*, *American Trader*, *President Roosevelt*, *President Harding*, and the British steamship *Cameronia*, and for other purposes, which was, on page 2, to strike out lines 22 to 25, inclusive, and on page 3, to strike out lines 1 to 13, inclusive.

Mr. JONES. I move that the Senate disagree to the amendment of the House, ask a conference on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. JONES, Mr. MCNARY, and Mr. FLETCHER conferees on the part of the Senate.

HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated below:

H. R. 457. An act to create a board of local inspectors, Steamboat Inspection Service, at Hoquiam, Wash.; to the Committee on Commerce.

H. R. 12733. An act to authorize the refund of certain taxes on distilled spirits; to the Committee on Finance.

H. R. 12899. An act authorizing the erection for the sole use of the Pan American Union of an office building on the square of land lying between Eighteenth Street, C Street, and Virginia Avenue NW., in the city of Washington, D. C.; and

H. R. 13171. An act authorizing the Secretary of the Treasury to accept a franchise from the government of the city of New York to change the routing of the pneumatic-tube service between the customhouse and the present appraisers' stores building, and for other purposes; to the Committee on Public Buildings and Grounds.

ROBERT W. STEWART, WITNESS

Mr. WALSH of Montana. Mr. President, I submit a privileged report from the Committee on Public Lands and Surveys, and ask that it may be read.

The VICE PRESIDENT. The clerk will read the report.

The Chief Clerk read the report (No. 897), as follows:

DISPOSITION OF CERTAIN LIBERTY BONDS ACQUIRED BY THE CONTINENTAL TRADING CO. (LTD.)

Mr. WALSH of Montana, from the Committee on Public Lands and Surveys, submitted the following report (to accompany S. Res. 207):

The Committee on Public Lands and Surveys respectfully reports:

That one Robert W. Stewart, who heretofore, on the 3d day of February, 1928, was, by order of the Senate, arrested by the Sergeant at Arms, he being by this committee charged with contempt in refusing to answer certain questions propounded to him by the committee proceeding under Senate Resolution 101, and who, having been taken from the custody of the said Sergeant at Arms by virtue of a writ of habeas corpus, was, subsequently, by order of the court issuing the same, remanded to such custody, from which order he prosecuted an appeal to the Court of Appeals for the District of Columbia and which appeal is now pending therein, appeared on the 24th day of April, 1928, before your said committee and made answer to the questions theretofore propounded to him and which he refused to answer, and likewise replied to all other pertinent questions propounded to him by your committee.

Wherefore your committee reports that the said witness, Robert W. Stewart, has purged himself of the contempt with which he stands charged before the Senate, and that accordingly its power to proceed further in the premises, as it is advised by counsel, Hon. George W. Wickersham, has ceased. The questions which the witness refused to answer are as follows:

1. "Mr. Stewart, do you know of anyone who received these bonds that the Continental Trading Co. are reported to have dealt in?"

2. "Colonel Stewart, have you discussed any of these bond transactions with Mr. Sinclair, or has Mr. Sinclair discussed any of these bond transactions with you?"

Touching the transaction so inquired of the witness told the committee when it last heard him that the contracts out of which the profits were realized which enabled the Continental Trading Co. (Ltd.) to purchase the bonds referred to in Senate Resolution 101, having been executed on the 17th day of November, 1921, on the 26th day of the same month he was told by H. S. Osler, the president of that com-

pany, that he, the witness, was entitled to share in the profits accruing to the said Continental Trading Co. from the said contracts; that thereupon he executed a trust agreement to one Roy J. Barnett under which he, the said Roy J. Barnett, should hold such profits in trust for the Standard Oil Co. of Indiana and the Sinclair Crude Oil Purchasing Co. as the interest of either might appear, which trust agreement was deposited and kept in the safety deposit box of the said witness; that thereafter from time to time until about June, 1923, packages of bonds were delivered to him by the said H. S. Osler, aggregating something less than $759,500 in amount; that such bonds as they were received by the witness were delivered to the said trustee, who deposited them in a safe in the office of the said witness, to which both he and the trustee had the combination; that the coupons of the said bonds maturing in June, 1922; December, 1922; June, 1923; and December, 1923, were clipped and bonds of the same denomination and in substantially the same amount were delivered by the said witness to the said trustee in exchange for such coupons, which were then deposited to the credit of the account of the said witness; that no coupons were clipped after December, 1923, in order to avoid publicity, secrecy having been enjoined from the beginning by the said witness of the said trustee, who was an employee of the Standard Oil Co. of Indiana, of which the said witness was the managing head; that on Friday or Saturday of last week the witness had for the first time conveyed information to the board of directors of his company of the facts hereinbefore cited. It was decided that the bonds, amounting in the aggregate to $759,500, should be turned over to the Sinclair Crude Oil Purchasing Co., which was done.

At the earlier hearing testimony was given by the said witness indicated by the following questions and answers and proceedings:

"Senator WALSH. Colonel, I suppose you have heard so much of the profits of this company, the Continental Trading Co., as were realized up to 1923 were invested in Government bonds, part of which have been traced to Secretary Fall, former Secretary Fall of the Interior——

"Mr. STEWART (interposing). I do not know whether any have been traced to Secretary Fall, and I do not know anything about the bonds. I never had anything to do with the distribution of any bonds.

"Senator WALSH. What, if anything, do you know about any of the bonds purchased by the Continental Trading Co.?

"Mr. STEWART. I never had anything to do with the Continental Trading Co.'s distribution of any bonds.

"Senator WALSH. That is not an answer to the question, Colonel.

"Mr. STEWART. I think it is.

"Senator WALSH. The question is, What do you know about them, whether you had anything to do with them?

"Mr. STEWART. Well, I didn't know anything about it.

"Senator WALSH. Now, let us get to this transaction by which the Sinclair Crude Oil——

"Mr. STEWART (interposing). I never had anything to do with the distribution by the Continental Trading Co. of any bonds.

"Senator WALSH. Do you know anything about the matter?

"Mr. STEWART. I don't know anything about it.

"Senator WALSH. What is that?

"Mr. STEWART. I don't know anything about it; that is, I don't remember anything about it.

"The CHAIRMAN. Mr. Stewart, do you know of anyone who received these bonds that the Continental Trading Co. is reported to have dealt in?

"Mr. STEWART. Senator NYE, I did not personally receive any of these bonds or make a dollar out of them; I personally did not make a dollar out of this transaction.

"The CHAIRMAN. That was not the question.

"Mr. STEWART. I have said that to you to make way for something else. I am a witness in a case which is now pending between the Government of the United States and some defendants. I have been interrogated in regard to these subjects by the counsel appointed to represent the United States in that case. From their interrogation of me I am of the opinion those are the issues which are going to be tried in that case, and I do not think that the line of interrogation here by this committee is within the jurisdiction of the committee under the laws of the United States. I do not think that the question is entirely pertinent to this inquiry, even."

After giving to the committee the information above summarized, the following proceedings were had and testimony given:

"Senator WALSH. Colonel, I want to call to your attention a question put to you when you were on the stand last, I read from page 190 of the testimony:

"'Senator WALSH. Colonel, I suppose you have heard so much of the profits of this company, the Continental Trading Co., as were realized up to 1923 were invested in Government bonds, part of which have been traced to Secretary Fall, former Secretary Fall, of the Interior——

"'Mr. STEWART (interposing). I do not know whether any have been traced to Secretary Fall, and I do not know anything about the bonds. I never had anything to do with the distribution of any bonds.'

"And at page 192:

"'Senator WALSH. What, if anything, do you know about any of the bonds purchased by the Continental Trading Co.?

"'Mr. STEWART. I never had anything to do with the Continental Trading Co.'s distribution of any bonds.

"'Senator WALSH. That is not an answer to the question, Colonel.

"'Mr. STEWART. I think it is.

"'Senator WALSH. The question is, What do you know about them; whether you had anything to do with them?'

"I think probably the stenographer omitted a word there, and I think the question should be 'What did you know about them, not whether you had anything to do with them'; but we will let that go. 'What do you know about them, whether you had anything to do with them?

"'Mr. STEWART. Well, I didn't know anything about it.

"'Senator WALSH. Now, let us get to this transaction by which the Sinclair Crude Oil——

"'Mr. STEWART (interposing). I never had anything to do with the distribution by the Continental Trading Co. of any bonds.

"'Senator WALSH. Do you know anything about the matter?

"'Mr. STEWART. I don't know anything about it.'

"Do you care to say anything about that testimony, Colonel?

"Mr. STEWART. I do not think so. I want to make it plain. What I meant there, I think, from what you read there, I assumed you were talking about the distribution of bonds to Mr. Fall or to somebody so that these bonds got into Mr. Fall's hands, but I never knew anything about those.

"Senator WALSH. You were referring to bonds which might come into the possession of Mr. Fall?

"Mr. STEWART. I assumed from what you read there that you referred to the bonds coming into the hands of Mr. Fall, and, as a matter of fact, all of the statements there are true.

"Senator WALSH. But, you will observe, Colonel, the question is, 'What, if anything, do you know about any of the bonds purchased by the Continental Trading Co.?'

"Mr. STEWART. I think my answer was I had nothing to do with their distribution.

"Senator WALSH. Your answer is, 'I never had anything to do with the Continental Trading Co.'s distribution of any bonds.'

"Mr. STEWART. I did not.

"Senator WALSH (reading):

"'Senator WALSH. That is not an answer to the question, Colonel.'

"And this is your answer to that question:

"'Mr. STEWART. I think it is.

"'Senator WALSH. The question is, What do you know about them, whether you had anything to do with?'

"And your answer is:

"'Mr. STEWART. Well, I didn't know anything about it.'

"Mr. STEWART. I assumed all the time, Senator WALSH, that you were talking about these Fall bonds. That is as I remember it now.

"Senator WALSH. Colonel, let me call your attention to the question. We start with the question: 'What, if anything, do you know about any of the bonds purchased by the Continental Trading Co.?'

"Mr. STEWART. Well, it may be we are working at cross-purposes and I do not understand you. That was my remembrance of what was in my mind when I was testifying here at that time. I didn't have anything to do with the distribution by the Continental Trading Co. of any of these bonds.

"Senator WALSH. Again I call your attention to the subsequent question, Colonel: 'The question is, What do you know about them, whether you had anything to do with them?' and your answer is: 'Well, I didn't know anything about it.'

"Mr. STEWART. I do not. I do not know anything about the distrbuton of those bonds.

"Senator WALSH. Well, you see, Colonel, you were not asked about the distribution of the bonds; you were asked: 'What do you know about any of the bonds purchased by the Continental Trading Co.?'

"Mr. STEWART. If you are putting that construction upon that, Senator, at this time, I did not understand it at the time, because I thought you were talking about the item of distribution of these bonds by the Continental Trading Co.

"Senator WALSH. You answer it, 'I never had anything to do with the distribution by the Continental Trading Co. of any bonds'; and I called your attention then to the fact that you had not answered the question. I did not ask you about the distribution of the bonds. I asked you what you knew about the bonds, and I said to you, for your information then, that was not the question, Colonel.

"Mr. STEWART. Senator, we will not fence about this matter. Just a moment. Now, I can not swear to-day that I know, of my own knowledge, where these bonds came from. The only thing I know about these bonds is that you have published a list of bonds here, and I have given you a list of bonds which will lead you to where these bonds came from if at one time they belonged to the Continental Trading Co. Mr. Osler did not tell me where these bonds came from.

He did not say these are Continental Trading Co. bonds. I did not know anything about their distribution, and I do not know anything about these bonds. As a matter of fact, Mr. Osler gave me these packages which he delivered to us, and when we opened them we found bonds in them, but of the history of those bonds I know nothing.

"Senator WALSH. He had told you that there would be some part of the profits in the Continental transaction coming to you?

"Mr. STEWART. Absolutely. Now, he had told me that long before there was a barrel of oil delivered upon those contracts, and that is the only time he ever talked to me.

"Senator WALSH. Exactly; in December, 1921.

"Mr. STEWART. Yes. Now, I assumed these were profits out of the Continental Trading Co., and I frankly told you I did not know where they came from. It may be that Osler got these bonds from some other source.

"Senator WALSH. From what other source could he——

"Mr. STEWART (interposing). Bless your heart, I do not know where Mr. Osler got the bonds any more than I know where you would get bonds.

"Senator WALSH. No; but if he gave you $750,000 of bonds, telling you that he was going to give you a part of the profits of the Continental Trading Co., there is no reason why you should not have the right to assume that they came from that source.

"Mr. STEWART. Supposing he gave me money instead of bonds?

"Senator WALSH. Yes.

"Mr. STEWART. Would I know where that money came from?

"Senator WALSH. But he told you that he was going to give you part of the profits of the Continental Trading Co.

"Mr. STEWART. He told me he was going to give me a participation in the profits. I told him I didn't want it. Where these bonds came from, I do not know.

"Senator WALSH. I do not remember whether you told us if you ever had any business transactions with Mr. Osler prior to this time or not, Colonel.

"Mr. STEWART. I do not remember any business transactions with Mr. Osler. I have known Mr. Osler a great many years, know him by reputation, know him personally; know his reputation is that of a great lawyer up in Canada.

"Senator WALSH. Yes; that is my recollection that you told us that before; and while you had known him you had never had any business transactions with him of any kind before?

"Mr. STEWART. I do not think so.

"Senator WALSH. But you did know, of course, that he was, or at least purported to be, the president of the Continental Trading Co.?

"Mr. STEWART. Yes, sir; I knew he was purported to be the president of the Continental Trading Co. at the time of the conference in New York.

"Senator WALSH. And he signed the contracts as such?

"Mr. STEWART. Yes, sir.

"Senator WALSH. And attached the seal of the company as such?

"Mr. STEWART. Well, I do not know whether he attached the seal or not.

"Senator WALSH. You do not know anything about that?

"Mr. STEWART. No. I know he purported to act as president.

"Senator WALSH. And knew that he had told you that there would be some of the profits in that transaction coming to you?

"Mr. STEWART. He told me he would give me a participation in some of those bonds, and I told him I did not want it.

"Senator WALSH. That is all."

Your committee further reports that prior to its call in response to which the witness Stewart appeared on the 24th day of April, 1928, it had secured information quite clearly indicating that a substantial amount of the bonds purchased by the Continental Trading Co., approximating a half million dollars, had passed into the possession of the said witness.

GERALD P. NYE.

Mr. WALSH of Montana. Mr. President, in explanation of the report just read I will state briefly that it recites that the witness, Robert W. Stewart, heretofore directed by the Senate to be arrested by the Sergeant at Arms, and who was arrested, for failure to answer questions propounded to him by the Committee on Public Lands and Surveys, proceeding under the provisions of resolution of the Senate No. 101, appeared on the 24th day of the present month and answered the questions which he theretofore had refused to answer, and answered all other pertinent questions which were asked him by the committee.

Whether or not on his last appearance Colonel Stewart was entirely frank and truthful in respect to the matters with relation to which he was interrogated, he did, as a matter of fact, answer all questions, and thereby, in the opinion of the committee and of its counsel, the Hon. George W. Wickersham, purged himself of the contempt; and thereupon the power of the Senate in the premises ceased.

I think perhaps heretofore I have explained that in a matter of this kind the Senate of the United States has no power to punish for contempt. Its power is coercive merely, and when there is no longer any occasion for coercion, its implied power thereupon ceases.

A witness refusing to testify before the Senate or a committee of the Senate may be imprisoned by the Senate indefinitely until he agrees to testify and does in fact testify. Thereupon, all power over him on the part of the Senate or either House of Congress ceases. But the Congress a good many years ago realized that a witness might subject either House to a great deal of embarrassment and put it to unnecessary trouble by refusing to testify, and then subsequently, when perhaps the situation was entirely different, coming forward and freely testifying. Accordingly, it passed an act making it a crime for any witness to refuse to answer pertinent questions addressed to him by a committee.

Acting under the provisions of that statute the circumstance of Colonel Stewart's refusing to testify was certified to the district attorney for the District of Columbia, and he has been indicted pursuant to that statute. That proceeding under the indictment so taken is not at all affected by his subsequent appearance and his willingness to testify. Of course, it might perhaps be adverted to in mitigation of any punishment that might be meted out to him by the court within the limits prescribed by the statute. If appeal is made in that direction, the circumstances under which he testified will properly be adverted to; and accordingly the committee has included in the report a paragraph to the effect that prior to the time that Colonel Stewart appeared in obedience to its last call the committee had secured information quite clearly indicating that practically the entire amount of bonds which came into his hands, $759,500, had been received theretofore by him.

Attention is also called in the report to testimony given by Colonel Stewart on his first appearance before the committee and testimony given on his later appearance on features of the inquiry which easily lead to the conclusion that there was an irreconcilable discrepancy between the testimony given by Colonel Stewart on his first appearance and his testimony given on the later appearance with respect to matters concerning which he could not possibly be mistaken.

I shall ask, Mr. President, the entry of two orders, the first as follows:

Resolved, That the order of the Senate heretofore made on the 3d day of February, 1928, directing the Sergeant at Arms to take into custody one Robert W. Stewart, and bring him before the bar of the Senate, is hereby vacated.

And the second order:

Ordered, That the Secretary of the Senate be, and he is hereby, directed to transmit a copy of the report submitted this day by the Committee on Public Lands and Surveys to the United States district attorney for the District of Columbia.

The VICE PRESIDENT. The question is on agreeing to the orders.

Mr. NORRIS. Mr. President, I do not want to take the Senator off the floor; but before those orders are voted on I desire to be heard.

Mr. NYE. Mr. President, since the recent appearance of Robert W. Stewart before the Committee on Public Lands and Surveys I have given considerable thought to what nature of report ought to be made to the Senate, and what nature of resolution ought to be asked of the Senate.

Personally, I am not inclined to agree that Mr. Stewart is any more entitled to have been excused from the contempt proceedings brought against him than Benedict Arnold is entitled to a resolution approved by the Senate excusing him for his treachery in his time; and yet, technically, he has freed himself from the charge which was filed by the Senate against him.

However, with all of these facts in mind, I yesterday jotted down what I thought ought to be the form of a resolution to be adopted by the Senate. Since that time I have been convinced that no one would fairly have a right to expect any Senator other than those who were members of the committee which has heard the testimony of Mr. Stewart to enter into any such resolution. However, in discussing the matter in the Committee on Public Lands and Surveys this morning I am convinced that my resolution not only speaks my own mind with respect to the conclusions which can be drawn at this time, but represents, too, the mind of every member of the Committee on Public Lands and Surveys who has followed these hearings at all. I therefore ask, merely for the information of the Senate, that I may read at this time such resolutions as I had drafted and thought to suggest as the resolutions to be adopted by the Senate.

Resolution

Resolved, That the order of the Senate contained in Senate Resolution 132 directing that one Robert W. Stewart be taken into custody and brought before the bar of the Senate by the Sergeant at Arms is hereby vacated, but in so vacating such order the Senate is mindful of the following facts and circumstances:

First. That the said Robert W. Stewart has appeared, not before the bar of the Senate, but before a committee thereof and answered those questions of the committee which he had previously declined to answer.

Second. That in his answer to at least one of those questions the said Robert W. Stewart plainly discloses that he could have given the same answer at the time when he chose to decline to answer without compromising himself as a witness in a certain court action. It will be recalled that he declined to answer on that ground. The question in point was: "Have you discussed any of these bond transactions with Mr. Sinclair, or has Mr. Sinclair discussed any of these bond transactions with you?" He declined to answer on the ground above cited until April 24, when he asked to have the question put to him again, when he said: "I do not remember any conversation I have had with Mr. Sinclair with regard to these bonds or any part of them." In view of the facts here stated, the truthfulness of his answer when finally made is not beyond question.

Third. That the transcript of his testimony before the committee discloses that the said Robert W. Stewart, before and after being given opportunity to attempt to purge himself of the contempt charges, instead of responding to questions asked of him in a full, clear, and complete manner, was evasive and in all probability did not tell all he knew about the purposes and affairs of the Continental Trading Co., information which the committee was ordered to gain if possible under Senate Resolution 101. The said Stewart admits in his testimony that he knew of that contract by which the Continental Trading Co. purchased and sold oil, thus creating the profits made and invested in Liberty loan bonds; admits that he tentatively guaranteed that contract; admits that he knew Mr. Osler as being one of the active heads of the Continental Trading Co.; admits that he personally received from Mr. Osler Liberty loan bonds upon the various occasions of their distribution; admits the total amount of bonds so received by him from Mr. Osler to have aggregated $759,000, which was a total like that known to have been received from the same source by the other three who shared in Continental Trading Co. profits; and yet, in spite of these admissions, denies any further knowledge of the purposes or activities of the said company and, with the information cited in this sentence, the sum and substance of information given by Mr. Stewart to the committee regarding the Continental Trading Co., he says under oath: "I have told you everything I know about it."

Fourth. That the said Stewart did not divulge the information which he now has divulged concerning his receiving a fourth share of the profits of the Continental Trading Co. until the committee had ferreted out that same knowledge without the aid of himself or his absent cohorts, who are spending prolonged vacations in Europe.

Fifth. That the order of arrest is vacated only because it is admitted that eventually the Senate must rule that technically the said Stewart has purged himself, or place itself in the light of persecutors.

Resolved further, That in view of the testimony of Robert W. Stewart, which finds him declaring under oath in February "I never had anything to do with the Continental Trading Co.'s distribution of any bonds," along with the proof now in evidence of the same Stewart's personal receipt of such bonds, a copy of the transcript of said testimony is hereby ordered to be submitted by the Secretary of the Senate to the district attorney for the District of Columbia with the request that the said attorney give study to the possibility of institution by him of proceedings in the courts of law against said Robert W. Stewart.

Mr. President, the great bulk of this which I have read has been incorporated in some measure in the report of the committee and in the resolution which has been presented by the Senator from Montana for that committee. I have only to add that that resolution is concurred in unanimously by the Committee on Public Lands and Surveys.

Mr. NORRIS obtained the floor.

Mr. HEFLIN. Mr. President, will the Senator yield to me to call up a bill and to ask unanimous consent for its passage? It is a very important bill, which I want to get to the House. If it leads to debate, I will withdraw it.

Mr. NORRIS. There is a resolution pending before the Senate now; but I have no objection.

Mr. HEFLIN. I will ask the Senator to go ahead with his remarks, and I shall call up the bill later.

Mr. NORRIS. Mr. President, before I discuss the action of the committee I want first to lay before the Senate what I believe to be the legal phase of this dilemma. The Senator from Montana has referred to it briefly and correctly, but I want to preface what I have to say by making a statement to the Senate which I think will clearly show the position now occupied by Mr. Stewart as a matter of law.

A witness refusing to answer a question propounded to him by a committee of the Senate, assuming that the committee has jurisdiction of the subject matter as to which it is making inquiry, and assuming that the question is material and proper, does by the act of refusal commit a crime under the laws of the United States. Punishment for that, however, is not the only punishment that that one act may bring upon him. He can be sent to jail, after proper arrest, and confined in jail until he answers the question. If he is confined in jail or is arrested and comes before the Senate and answers the question, he purges himself of the contempt of the Senate, and the Senate can go no further; but such action has no legal effect upon the prosecution of the same witness for his refusal to answer. His action may be offered in evidence in the trial, without any doubt, to affect the judge in administering punishment. If he shows that he has, prior to the trial and after the question was asked, properly answered the question, the court, of course, would take that into consideration in administering the punishment.

I am speaking of this because this is not the only case where the Senate has been unjustly treated and where its deliberations and its actions have been interfered with in different investigations by witnesses who have refused to answer questions.

The witness refused to answer a question in the investigation of Daugherty. Nothing was ever done about it. The case was carried to the Supreme Court, where the Supreme Court decided in favor of the Senate, but the session of the Congress had ended, some members of the committee were out of the Senate, and the object of the investigation had really lapsed, as far as the Senate was concerned, by the expiration of time.

In the investigation of the primary proceedings in Pennsylvania and in Illinois witnesses refused to answer, but after the election came before the committee and answered. One of them was Mr. Insull, who was in contempt of the Senate, but after the election, and when the importance of his testimony had practically disappeared, he submitted himself to the committee and answered. He ought to have been prosecuted just the same. The same thing happened in the Cunningham case, in Pennsylvania, where the witness refused to answer and in that case never did answer. In the Sinclair case Mr. Sinclair has been tried and found guilty for refusing to answer. His contempt case is on its weary way to the Supreme Court, and the other case is likewise.

What I want to call to the attention of the Senate is that if the Senate is going to let witnesses refuse to answer and then, when the very object of the testimony has disappeared on account of the lapse of time, come in and answer, and the Senate do nothing further, it might as well lie down to begin with; in other words, it is made a laughingstock all the way through and never will get anywhere with any witness who does not want to testify.

For this reason I object to one of these orders. It seems to me that while technically Mr. Stewart has purged himself of the contempt we ought distinctly to let it be known, when we pass the resolution, that we want it understood by the prosecuting officer that the fact that Stewart has purged himself shall not be taken by the prosecuting officer as any reason for ceasing to continue to prosecute him in the other case, where he has committed a crime by a refusal to answer.

Moreover, it seems to me, Mr. President, that instead of the Senate taking action through this committee it ought to have let Mr. Stewart make the first move. He was arrested on the warrant of the Senate. The direction of the warrant was to bring him to the bar of the Senate. He sued out a writ of habeas corpus, which is pending in court now. If the court decided against him, the order of the court would turn him back to the Sergeant at Arms, and the Sergeant at Arms would bring him to the bar of the Senate, where the questions he refused to answer would be propounded.

Why is the Senate going to take the initiative? If Mr. Stewart wanted to purge himself, why did he not dismiss his case? Why has his case continued to be pending? Why has not he said to his lawyers, "I am going to answer those questions; stop these proceedings," and let the court turn him back to the Sergeant at Arms and let him come in here and answer, which would have purged him? In other words, in reality we are dismissing this suit when it ought to have been that we should let Stewart make the move to purge himself.

I doubt very much whether the committee had any authority to hear him at all. I think the matter had passed out of the hands of the committee; it was in the hands of the Senate; the Senate had acted and had issued a warrant for Stewart's arrest; he had been arrested; and the direction of that warrant was to bring him to the bar of the Senate.

Now he comes along, after the time has lapsed, after the Sinclair trial has taken place—and that trial was his reason for not answering the question—and he comes to the committee and says, "Now I am ready to answer; it can not hurt Sinclair any now; I can answer"; and he answers. It seems to me the committee ought to have said, "You answer to the Senate. If you want to continue this trial in the Supreme Court to see whether the Senate has jurisdiction, that is your privilege; but if you want to quit that litigation, you stop it, and let the answer be made to the Senate instead of the committee."

Mr. NYE. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. NYE. In order that the record may be clear, I would like to have it noted at this point in the Senator's remarks that when on day before yesterday Mr. Stewart was before the committee and suggested that he would like to answer those questions I did maintain and contend at the time that I did not feel the committee had any right to hear his answers to those questions; that the committee had no right to serve for the Senate as a whole; that Mr. Stewart had been summoned to appear before the bar of the Senate; and that that was where he ought to appear.

Mr. NORRIS. I think that is so. It seems to me it is making a laughingstock of the Senate. We are establishing a precedent that any witness who does not want to testify can fool the Senate along for a year or two when a case is up, and when at his own sweet pleasure he wants to testify he can walk into the committee room and say, "Here I am; I am ready to answer." But I think that is more or less technical. I think the Senate, to preserve its own dignity, ought to do that. Not only to preserve its own dignity, but in order to preserve orderly procedure it should not permit itself to be led around by a witness in this way. That has seemed to be especially true when we consider the evidence and the testimony that Stewart gave.

Mr. BRATTON. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. BRATTON. I am very much interested in what the Senator is saying. The witness did appear before the committee and announced his willingness to answer the exact questions which he had declined to answer on a previous occasion. The Senator thinks that he should have come to the bar of the Senate. What more could the Senate itself do——

Mr. NORRIS. Not anything more.

Mr. BRATTON. If he came to the bar of the Senate and said, "I now am willing to answer those questions," what could the Senate do to preserve its dignity and orderly procedure any more than was done by the committee?

Mr. NORRIS. I do not think the Senate has preserved its dignity or orderly procedure as it is. There may be a difference of opinion about that. I do not want to criticize anybody who does not agree with me in that.

Mr. BRATTON. What I would like to get from the Senator from Nebraska is, What different course could the Senate have pursued than the committee pursued; that is, what else could it have done other than to let him answer the questions and completely purge himself and gain his freedom by doing so?

Mr. NORRIS. I have not claimed the Senate could do anything else, but it would have been doing it in an orderly way. Now, when the case comes up what will happen? The attorney for the Senate will appear and say, "We dismiss this case. The Senate is going to surrender, the Senate is wrong, the Senate is dismissing this case. The foundation is gone." If they had gone on in court, assuming that the court would have held that the questions were proper and right, they would have issued an order which would have remanded this man to the custody of the Sergeant at Arms, and the Sergeant at Arms would have brought him before the bar of the Senate. That would have been some humiliation for Stewart, all of which he now escapes. He is given a chromo now, and on the face of the thing it looks as if the Senate were wrong in the entire proceeding, because we are going to dismiss our suit.

I confess that that might not be of so much importance if this were the only case we were ever likely to have and it did not establish a precedent which I believe to be ruinous and injurious. I probably would not mention that part of the proposition if that were not so. But the committee asked Insull some questions. That was after the primary in Illinois and before the election. Insull refused to answer, and the committee intimated that it would have to report the matter to the Senate; but he did not care about that. But, to be fair with Mr. Insull, they called him back the second time and asked the same questions again, and again he refused.

After the election Mr. Insull came before the committee and said, "Now, I will answer"; they let him answer, and they did not do anything. That was the first case, and probably that is what most people would have done. They let him go. Nothing has ever been done about it. He committed a crime when he refused to answer the first time; he committed a crime again when he refused to answer the next time. We might pass over that.

Mr. KING. Mr. President, will the Senator yield for a question?

Mr. NORRIS. I yield.

Mr. KING. With respect to the Insull case and the Schuyler case and the Crowe case, all from Illinois, in behalf of the committee I submitted a final report dealing with those cases, and that report will be brought to the attention of the Senate as soon as the chairman of the committee, the senior Senator from Missouri [Mr. REED], returns to the city.

Mr. NORRIS. Mr. President, prior to the Insull case we had the Daugherty case, in which the Senate never took any action. It ran along so long, a year or two, as I remember it, when the Supreme Court decided it, and it was dropped, there never was anything done, and he never was compelled to answer. In fact, the importance of his answer at that time had disappeared, probably. I am calling the attention of the Senate to the fact that that is going to happen over and over again with any witness who wants to take that course.

Mr. FLETCHER. Mr. President, will the Senator yield?

Mr. NORRIS. I yield.

Mr. FLETCHER. I quite agree with the Senator that the regular procedure would have been to produce Mr. Stewart here before the bar of the Senate, but would it not have been perfectly regular, then, for the Senate to have remanded him to the committee and told him to appear before the committee and answer these questions instead of proceeding as a whole?

Mr. NORRIS. That is a method of proceedure I do not care to discuss. I will say to the Senator, however, that I do not believe that would have been proper.

Mr. FLETCHER. It occurred to me that probably that could have been done.

Mr. NORRIS. It might have been.

Mr. FLETCHER. And that committee might have been justified in assuming, in proceeding in its own way, that that probably would have been done, and that they should proceed. In view of what the Senator says with regard to these two resolutions, I myself think they ought to be considered separately; I do not think we ought to act on both at the same time.

Mr. NORRIS. What I am afraid of is that if we pass this resolution as it has been read from the desk, the prosecuting officer will say, "Well, the Senate has forgiven this thing, and we will dismiss this suit." I think we ought to express ourselves explicitly by an amendment to the resolution, if we are going to pass it—and I suppose we will. I am mentioning these things only incidentally; I am really not trying to controvert the action the committee has taken, but I think we ought to amend the resolution by explicitly stating that under no consideration should the prosecuting officer, in the judgment of the Senate, dismiss that suit without trial. He ought to go to trial with it.

Mr. FLETCHER. I think perhaps the resolution shows that, but certainly the remarks in connection with it clearly indicate that the resolution is not to be construed by the prosecuting officer as an expression of opinion on our part that the case should be affected by it.

Mr. NORRIS. I agree, just so the expression gets to the prosecuting officer. Maybe it will get to him from the debate, and that is one reason why I am debating it.

Mr. FLETCHER. I suggest another reason for sending down the record. It seems to me that the resolution should include the record that is recited in the report, because it not only shows what happened—and that ought to impress the prosecuting attorney—but, in addition, it may raise another question with the prosecuting attorney as to whether there is not a case of perjury involved.

Mr. NORRIS. I think it will. It seems to me, from the testimony given by Stewart himself, and other facts which are undisputed and admitted, that he is guilty of perjury, and has committed it before this committee. I have no hesitancy in saying that.

Mr. BRATTON. Mr. President, will the Senator yield again?

Mr. NORRIS. I yield.

Mr. BRATTON. I am in perfect accord with what the Senator from Nebraska has said in respect to the general policy of delay of prosecutions in cases of this kind, and rendering them ineffective by delay. As I understand the legal situation,

when a witness appears before a committee and declines to answer a relevant question propounded in connection with the subject matter under investigation, he violates a Federal statute, and that act is completed.

Mr. NORRIS. It is a completed act.

Mr. BRATTON. It is a completed act, criminal in nature.

Mr. NORRIS. Yes.

Mr. BRATTON. At the same time, and by the same act, he commits a contempt of the Senate.

Mr. NORRIS. Yes.

Mr. BRATTON. Which is in the nature of a criminal contempt, as distinguished from civil contempt, because it is an act of defiance to the Senate that is intended to bring the Senate into disrepute in the forum of public opinion. That is continuing in nature; it is not completed.

Mr. NORRIS. Yes.

Mr. BRATTON. It is continuing in the sense that he may come before the Senate or before the committee at any time and offer to answer the question propounded, and thereby purge himself of the contempt. I think the weakness in the course we have followed in the past has been our delay in pressing criminal prosecution, because the person guilty of a contumacious act of that kind always has the right to purge himself, and we are powerless to go beyond that. When he comes before the bar of the Senate and offers to comply with the order of the Senate by answering the questions, he is absolved from contempt but not of the violation of the criminal statute.

Mr. NORRIS. I tried to make that plain. I do not think there is any doubt at all about that proposition.

Mr. BRATTON. But what we should do in the future is to act with more haste in bringing about effective prosecution. Let the public generally understand that when they assume such a position they are going to be prosecuted without delay.

Mr. NORRIS. I think we ought to do that. I agree with the Senator.

Mr. BRATTON. I think that is where we have failed in the past.

Mr. NORRIS. Mr. President, I had started to make a general statement of the background of the things which have happened as shown by the investigation of the committee of the oil matter under discussion. Here are Stewart, Blackmer, O'Neil, and Sinclair, representing different corporations, who want to buy some oil. Here is Humphreys who has the oil for sale. They meet in New York and buy about 33,000,000 barrels of oil from Humphreys. Humphreys supposed that he was selling directly to these men. After they had agreed on the contract, how the oil should be delivered over a course of two or three years, how it should be paid for, and the price, Sinclair, Stewart, and the other men said, "Draw this contract in the name of the Continental Trading Co. of Canada."

That was the first time that Humphreys had ever heard of the Continental Trading Co. He thought he was selling to these men with whom he had been associated for two or three days. Humphreys refused to sell to the Continental Trading Co. because it was not a cash deal. The oil was to be delivered and paid for as delivered running over a long period of time. These men thereupon said, "We will guarantee the payment"; and the sale was made to the Continental Trading Co. This man Stewart, this witness representing the Standard Oil Co. of Indiana, as its president, signed the contract as a guarantor. He and Sinclair and Blackmer guaranteed the payment of a contract which involved something over $8,000,000. This same Continental Trading Co. took the same oil and sold it to the same men Stewart, Sinclair, Blackmer, and O'Neil, or to their companies, at a profit of 25 cents a barrel.

There was a profit amounting to several million dollars which, if the contract had all been carried out, would have come to those people who had negotiated the deal. They had the Continental Trading Co. buy the oil at one price and sold it back to them at an advanced price. Their companies got the oil. They either cheated their own stockholders or they were engaged in some other kind of an illegal, disgraceful contract and bargain. The Supreme Court, after reviewing the evidence, so held. It is undisputed that the Continental Trading Co. never had any existence before that date. It never did any business except to carry out the one contract. It dissolved just as soon as it transacted that business. It invested its profits in United States Liberty bonds, and gave those bonds to Sinclair, Stewart, Blackmer, and O'Neil. We know what Sinclair did with his, and we know from the evidence now what Stewart did with his.

Stewart came before the committee to answer these questions which he had refused to answer before, but he never did so until he knew the committee had ferreted out the fact and had the evidence without his testimony that he had the bonds. He had denied under oath that he knew anything about them. He said he had not handled any of those bonds; and yet he guaranteed the contract to this illegal company.

When the committee had summoned the bank officers and his deposit slips, and they produced either the original deposit slips or photographic copies of them, showing in his own handwriting the deposit of coupons from these bonds, then he knew they "had the goods on him," and there was no escape; so he came before the committee and said, "Here I am; I will testify," and he did testify.

Mr. NYE. Mr. President——

The PRESIDING OFFICER (Mr. COUZENS in the chair). Does the Senator from Nebraska yield to the Senator from North Dakota?

Mr. NORRIS. I yield.

Mr. NYE. I am sure the Senator would like to have me correct any error which might apparently be made. It has not been proven that the deposit slips were in the handwriting of Mr. Stewart.

Mr. NORRIS. I am glad to have that correction made. But the deposit slips showed, did they not, that the deposit consisted of coupons from United States Liberty bonds?

Mr. NYE. Of that particular issue?

Mr. NORRIS. Yes; of that particular issue.

Mr. NYE. Yes; with which the Continental Trading Co. was dealing.

Mr. NORRIS. Those were 3½ per cent Liberty bonds of the first issue.

As I said, Mr. Stewart confessed, when he came before the committee the last time, practically what he knew the committee was going to be able to prove without him. He admitted that he had the bonds. He admitted that he got them from Osler, president of the Continental Trading Co. He had denied all knowledge of anything of that kind when he testified before. Any man who will admit what he himself admitted in the different times he has testified, and will take into consideration the admitted facts about the profits on the oil and its sale—anyone who will do what it is conceded he did, must be either a crook or a fool; and everybody knows that Stewart is not a fool.

It seems to me that we are under no obligation to mitigate any of the circumstances which have surrounded this transaction. He has not been fair in his testimony; he has been misleading. Although he is a shrewd lawyer, he has given testimony before the committee where he was cross-examined that shows, I think, almost conclusively—indeed, it does show conclusively—that he is trying to avoid a fair and honest statement of what the facts are. He justifies the fact that he took the bonds from Osler. They were in a package that Osler gave him, and when he opened the package he found the bonds. He took the coupons and had them cashed. Then he provided some sort of arrangement with his secretary, appointing him trustee to hold them in trust, and finally to turn them over to the Standard Oil Co. of Indiana. I wonder what Mr. Rockefeller will say the next time he appears before the committee?

All of those things seem to have been necessary. Would they have been necessary had it been an honest deal? If these men in the beginning were honestly buying oil, why did they need a subterfuge of this kind in order to make a profit of several million dollars? If they were only buying oil of Humphreys which their companies wanted, they would not have needed to organize a fraudulent corporation in Canada. It would not have been necessary for that money to be taken into Canada and then have Osler take it or send it to New York and buy United States Liberty bonds with it, and then to take the bonds back to Canada and then to bring them here to divide among these conspirators. It is a flimsy deal and no one can look at it without reaching the positive conclusion that it is a fraudulent transaction which was engaged in by every one of the men who had a finger in it. There is not an honest spot in it. It is dishonest from beginning to end.

Now we have this man say to the Senate, "I have answered your questions to the committee," and then we have the Senate asked to direct its attorney to dismiss the suit and save Stewart from all the humiliation that is possible, when he ought to have been brought in here by the Sergeant at Arms under arrest and publicly asked the questions and then let him purge himself and pass out. That procedure would have purged him. It would have been some humiliation, all of which he escapes enduring. While he has undoubtedly committed perjury, we have just had an illustration, and not the only one, either, that it is almost an impossibility to convict a man of a crime if he makes a stealing that is big enough. When Sinclair bribes a public official and uses about $300,000 to do it, he can not be convicted under our system of jurisprudence. He is immune from prosecution.

It is true that Stewart did not get that much, and it is a different kind of crime in his case. His crime is perjury, which every prosecuting officer knows is one of the most difficult cases to prosecute that is known in criminal jurisprudence. Even though everybody in the country, including the Supreme Court, knows he is guilty of perjury, I doubt whether it would be possible to convict him before a jury, because there is too much invested in the defense. There are too many possibilities of shrewd, able, technical lawyers to be employed who could get Doheny free and who could get Sinclair free. They will be able to get Stewart free, even if he is prosecuted. So it seems to me that the only prosecution from which I do not believe he can escape is prosecution for the crime which he committed when he refused to answer these questions before the committee, and of which in due time he may be found guilty, and which would subject him to a jail sentence. After all, we ought to be satisfied, perhaps, under the circumstances if felony punishments were confined to poor men and millionaires are permitted to serve in jail, whatever sentence may be adjudged against them.

Mr. GLASS. Mr. President——

Mr. NORRIS. I yield to the Senator from Virginia.

Mr. GLASS. What would be the objection to adding to the second resolution which has been sent to the desk by the Senator from Montana, a provision certifying the report of the committee to the United States district attorney, "with the view to having said district attorney determine whether Robert W. Stewart should not be presented to the grand jury for indictment on the charge of perjury?"

Mr. NORRIS. I think it would be very proper to have those words inserted.

Mr. GLASS. So far as I am concerned, it is my judgment that, while it may be said, in a sense, that Stewart has technically exculpated himself from the charge of perjury, his later testimony shows just exactly in what degree he held the Senate in contempt, because he practically admitted, while yet denying, that he lied to the Senate committee, and that he did it for a purpose—for the purpose of frustrating justice, because testimony that he might have given in response to the questions asked might result in the conviction of his partner in crime, Sinclair.

Mr. NORRIS. I thank the Senator for his suggestion.

Mr. WALSH of Montana. Mr. President——

Mr. NORRIS. I yield to the Senator from Montana.

Mr. WALSH of Montana. I desire to say that I think I am warranted in saying on behalf of the committee that the amendment proposed by the Senator from Virginia will be entirely acceptable.

Mr. NORRIS. I hope that is true, and I do not see how it could be otherwise; but while the Senator from Montana is interrupting me I want to ask him what objection there would be to amending the other order that he submitted here so as to make it perfectly clear that the Senate does not want that case dismissed.

Mr. WALSH of Montana. While the Senator was discussing this matter, and because the question was raised, I wrote out such a supplementary sentence:

This order—

That is, the order vacating the order of arrest—

shall not be construed as any intimation on the part of the Senate that the indictment heretofore returned against the said Robert W. Stewart for refusal to answer questions propounded to him by the Committee on Public Lands and Surveys should be dismissed.

Mr. NORRIS. That is satisfactory. Both of those amendments are satisfactory; and, Mr. President, with them both I shall offer no further objection, even though I believe that the other procedure ought to have been followed. The committee have taken this procedure in good faith, I do not question that. They may be right, and I wrong; but I have a deep feeling that where these men who were trying to deceive the country, who were trying to deceive the Senate, who were engaged in a great conspiracy in which there were profits of millions and part of the money at least was traced to public officials and used for bribery purposes, were escaping from the large punishment that they ought to have had, we ought not to take any steps to relieve any of them of any humiliation that may come to them.

Mr. CUTTING. Mr. President, will the Senator yield?

Mr. NORRIS. Yes.

Mr. CUTTING. May I ask the Senator whether he does not believe that these men are still trying to deceive the Senate?

Mr. NORRIS. Yes; there is not any doubt of it in my mind.

Mr. HEFLIN. Mr. President, before the Senator takes his seat, will he yield to me?

Mr. NORRIS. Yes.

Mr. HEFLIN. Some weeks ago, briefly, Mr. Stewart was in contempt of the Senate. He flatly refused to testify and to tell the truth as he knew it to the Senate. The Senate then ordered him to be imprisoned. He sued out a writ of habeas corpus, and was turned out of jail. In the meantime the Sinclair case was pending. He remains quiet and silent until that case is disposed of and Sinclair is acquitted. In the meantime, I understand, Mr. Stewart has been indicted. After the Sinclair case is disposed of, having put himself in the same category with Sinclair of defying the Senate, he waits until Sinclair is acquitted, and now he comes back before the committee and testifies.

I understand that the Senate is not releasing him now, but the indictment is pending. It seems to me that his coming now and testifying furnishes the testimony necessary for the jury in Washington, and that he can not escape conviction, and he ought to be convicted for this offense.

Mr. NORRIS. Mr. President, the trial on the kind of a crime with which he is charged—the same one as against these other people, Stewart and others—is a very simple trial. The question involved is whether the committee of the Senate before which he was called to testify had jurisdiction of the matter, and whether the questions were proper ones, and whether he refused to answer them. These questions are so plain that I do not believe anyone will doubt but that they were proper. The committee did have jurisdiction, and, of course, it is admitted that he did not answer. In fact, the lower court, in passing on the habeas corpus, dismissed it and ordered him back into the custody of the Sergeant at Arms; and then he took an appeal, which is still pending. The fact, however, that he afterwards answered the questions which at first he refused to answer will undoubtedly be taken into consideration by the court in administering punishment. It is, however, no defense whatever to the crime itself.

Mr. HEFLIN. That is my point, and that this man is bound to be convicted, if the court does its duty, for his performance heretofore; but what degree of punishment they will impose upon him is another question.

Mr. WALSH of Montana. Mr. President, I have indicated that the committee would be altogether regretful if any action taken here should be construed by anyone as an indication that the Senate desired that the proceeding in the Supreme Court of the District of Columbia under the indictment found against Colonel Stewart should be dismissed, or that it should not be prosecuted with vigor. It never occurred to any member of the committee that any such interpretation could be given to the action which it is proposed by the committee should be taken by the Senate; but, lest any such supposition might be indulged by anyone, I propose the amendment which was read a few moments ago to the order directing the vacation of the preceding order directing the arrest of Colonel Stewart. Of course, it is perfectly obvious that if we adopt the resolution transmitting the report to the district attorney of the District of Columbia for his consideration we do so with a view that he shall scan the record to see whether an indictment might not be proper against Mr. Stewart for perjury; and accordingly there is not the slightest objection to the other order tendered by the Senator from Virginia [Mr. GLASS].

The Committee on Public Lands and Surveys may be open to censure such as is implied in the remarks of the Senator from Nebraska for the course they took in this matter. If I understand him aright, when the committee learned that probably some further information could be secured from Colonel Stewart, instead of sending notice to him in the usual form to come on and be interrogated further, the committee should have entirely ignored that information; it should have allowed him to come or not come, just exactly as he saw fit, and abide the result of the proceedings in the courts; and, if it should eventually be determined, as in all probability it would be determined, that he should have answered the questions, have him brought before the bar of the Senate by the Sergeant at Arms and interrogate him before the Senate.

That may be the proper procedure in a case of this character. It is not, however, my view about the matter. The committee was charged by the Senate with the duty of finding out where these bonds had gone, what had become of them; and it occurs to me that it would have been derelict in its duty, it would have been recreant to the charge reposed in it if it had not followed every reasonable clue to unearth the facts in relation to the matter. I violate no confidence in saying that it was common report about the corridors of the Senate here for at least two or three days before Colonel Stewart was recalled

that he would be quite willing to come before the Senate and give it some further information. I should not have felt that I was discharging my duty if I had not immediately taken steps to require Colonel Stewart to appear before the committee and interrogate him further. I should not have felt justified in taking chances upon a lawsuit, which might possibly fail, to compel him to come here. Of course, I do not think it would; I never could see any reason why it should fail; but I have been in the law business long enough to know that you are always taking chances on a lawsuit, and able attorneys made plausible arguments to the court against the proceedings that had been taken.

So I can not feel that the committee is open to any just criticism for the course that it took. It might be justified to subject Colonel Stewart to the humiliation of being brought before the bar of the Senate by the Sergeant at Arms, but no results other than that would have been secured; and, in all reasonable probability, not as much as were secured by the course which was observed.

Mr. President, that is all I care to say about this matter, except that I desire to call attention to an article having the sanction of the Associated Press in the Washington Post of this morning, in which the following occurs:

> The only difference of opinion that arose at first was whether the committee should cause the record to be certified to the district attorney, or whether the district attorney should be left to ascertain the facts for himself.
>
> Senator WALSH took the view that it was not the function of the Senate to make certification to the prosecuting officer, but merely to call the matter to the attention of the Senate. Chairman NYE and others took a contrary view, however, and insisted yesterday that the matter should be officially referred to the district attorney.
>
> After a series of conferences during the afternoon, Senator WALSH said he would not oppose such action by the Senate. Chairman NYE said he expected a unanimous report from the committee at its session, called for this morning, in advance of the convening of the Senate.

That very clearly implies that there was quite a division of opinion upon this matter in the committee of the Senate. I think the chairman of the committee will corroborate what I say, that that statement is without any foundation in fact whatever.

Mr. NYE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from North Dakota?

Mr. WALSH of Montana. I do.

Mr. NYE. I have not had a chance to-day to look at the morning papers. Is there anything in the prints this morning from which the Senator is quoting containing a statement by myself, authorized by myself?

Mr. WALSH of Montana. No; it does not say so; but that is a matter of no great consequence, I am sure. The statement is that—

> Senator WALSH took the view that it was not the function of the Senate to make certification to the prosecuting officer.

Mr. NYE. Mr. President, last evening I was approached from so many angles in a way to indicate that there was a general impression prevailing that there were violent differences existing in the Committee on Public Lands and Surveys as to this report and resolution that was coming to-day that I issued a statement that there was no ground for any such conclusion or any such impression. As I have said, I have not had a chance to observe the papers this morning to see whether that was carried or not; but the Associated Press was given that statement, which ought to have explained the entire matter. In other words, there was no foundation for any such tale as that carried there, which the Senator has just read.

Mr. WALSH of Montana. The plain fact about the matter is, Mr. President, that upon the suggestion being made that some steps ought to be taken about the matter, I myself suggested the order which is now before the Senate directing that the report be sent to the prosecuting officer; and I might add that there was no division of opinion in the committee upon that matter.

Mr. NYE. None whatever.

The PRESIDING OFFICER. The question is on the resolution as amended.

Mr. LA FOLLETTE. Let it be read.

The PRESIDING OFFICER. The Secretary will state the amended resolution.

Mr. WALSH of Montana. Mr. President, the matter takes the form of an order. I asked that the following order be entered; and I now move that it be amended by adding thereto the following:

> This order shall not be construed as any intimation on the part of the Senate that the indictment heretofore returned against the said Robert W. Stewart for refusal to answer questions propounded to him by the Committee on Public Lands and Surveys should be dismissed.

The PRESIDING OFFICER. The question is on agreeing to the order as modified.

Mr. WALSH of Montana. On agreeing to the amendment to the order.

The PRESIDING OFFICER. The Chair understood that the Senator was modifying his own order.

Mr. WALSH of Montana. I tendered the order on behalf of the committee. I have no authority to amend that, it not being my own.

The PRESIDING OFFICER. The question is, then, on the amendment to the resolution.

Mr. LA FOLLETTE. Mr. President, I should like to have it read as it would be in final form if the amendment were adopted.

The PRESIDING OFFICER. The order will be read.

The Chief Clerk read the resolution (S. Res. 207), as follows:

Resolved, That the order of the Senate heretofore made on the 3d day of February, 1928, directing the Sergeant at Arms to take into custody one Robert W. Stewart and bring him before the bar of the Senate is hereby vacated.

Mr. WALSH of Montana. Then follows the amendment.

Mr. LA FOLLETTE. Would the Senator mind reading it again?

Mr. WALSH of Montana. It is as follows:

> This order shall not be construed as any intimation on the part of the Senate that the indictment heretofore returned against the said Robert W. Stewart for refusal to answer questions propounded to him by the Committee on Public Lands and Surveys should be dismissed.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Montana.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is on agreeing to the resolution as amended.

Mr. HEFLIN. Mr. President, before the vote is taken, it seems to me that the resolution ought to say, "But the Senate insists upon the prosecution of Mr. Stewart for defying the Senate in refusing to testify." I believe that ought to be set out in this resolution; and I offer this amendment:

> That the Senate insist—
>
> Following the language just adopted—
>
> upon the prosecution of Mr. Stewart for the offense that he committed against the United States.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Alabama.

The amendment was agreed to.

The PRESIDING OFFICER. The question now is upon agreeing to the resolution as amended.

The resolution as amended was agreed to.

The PRESIDING OFFICER. The Secretary will state the second order.

The CHIEF CLERK. The second order reads:

Ordered, That the Secretary of the Senate be, and he is hereby, directed to transmit a copy of the report submitted this day by the Committee on Public Lands and Surveys to the United States district attorney for the District of Columbia.

Mr. GLASS. Mr. President, I send to the desk an amendment, which, I understand, the Senator from Montana is willing to accept.

The PRESIDING OFFICER. The amendment will be stated.

The Chief Clerk read as follows:

> with a view to having said district attorney determine whether Robert W. Stewart should not be presented to a grand jury for indictment on the charge of perjury.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Virginia.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the adoption of the order as amended.

The order as amended was agreed to.

The PRESIDING OFFICER. Petitions and memorials are in order.

PETITIONS AND MEMORIALS

Mr. CURTIS presented a petition of members of the Ford County (Kans.) Women's Advisory Council of Farm Bureau Work, praying for the passage of the so-called Capper-Ketcham

bill, being the bill (S. 1285) to provide for further development of agricultural-extension work, which was referred to the Committee on Agriculture and Forestry.

Mr. WALSH of Massachusetts presented a petition of sundry citizens of Brookline, Mass., praying for the prompt passage of legislation granting increased pensions to Civil War veterans and their widows, which was referred to the Committee on Pensions.

Mr. KING. There is a bill pending before the Committee on Public Lands and Surveys to cede to the public-land States all of the lands that belong to the United States except mineral lands. There is also a bill pending, I am advised, for the purpose of leasing most of the public domain to the States; that is, placing them under the control of the Forest Service for leasing.

I am in receipt of a memorial signed by 50 or 60 persons protesting against leasing and expressing their views that the lands should be ceded to the States. The memorial is very brief, and I ask that it may be inserted in the RECORD, but not the names, and that the memorial with the signatures be referred to the Committee on Public Lands and Surveys.

There being no objection, the memorial was referred to the Committee on Public Lands and Surveys and ordered to be printed in the RECORD, as follows:

HUNTINGTON, UTAH, *October 30, 1927.*

Hon. WILLIAM H. KING,

United States Senator, Washington, D. C.

DEAR SIR: We the undersigned citizens and users of the public domain residing in Emery County, Utah, hereby petition and ask that you use your influence as our United States Senator to keep the public domain in this State the same as it is to-day.

We understand that there is a move on foot to put the public domain under some kind of Federal control, and we feel that this action would be a great burden upon the livestock interests of this country. As you are, perhaps, aware we are having all we can do to keep on our feet under present conditions, and we certainly feel that we should not be further burdened with having to pay for the use of our winter ranges. And as you know the paying for the range is a very small item in comparison with the inconvenience and the uncertainty of Federal controlled ranges.

Hoping that you can do something for us by keeping it as it is or having it ceded to the State by the Government.

We are sincerely yours,

———— ————.

Mr. KING. I present likewise another memorial signed by 50 or 60 citizens of the State of Utah of like import. I move that it be referred to the Committee on Public Lands and Surveys.

The motion was agreed to.

J. E. BARLOW

Mr. ROBINSON of Arkansas presented letters from J. E. Barlow requesting permission to appear before the Foreign Relations Committee with reference to the matter of the alleged illegal seizure of his property in Cuba, which were referred to the Committee on Foreign Relations.

SURCHARGE ON PULLMAN FARES

Mr. ROBINSON of Arkansas. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial published in the New York World on April 18, 1928, relating to the subject of the surcharge on Pullman fares. I commend this editorial to the consideration of the chairman and members of the Committee on Interstate Commerce.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Arkansas?

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

[From the New York World, Wednesday, April 18, 1928]

THE SURCHARGE ON PULLMAN FARES

While Congress is considering the removal of the remaining war-time taxes it might well turn its attention to one tax of war origin whose proceeds do not go into the Federal Treasury. This is the surcharge of 50 per cent on Pullman tickets. It was originally imposed when the Government was in control of the railroads and was intended for the twofold purpose of raising revenue and discouraging civilian travel when a large part of the railway equipment was needed for moving troops.

After the armistice this surcharge was discontinued, but in 1920, when the roads were hard hit by the postwar inflation, the Interstate Commerce Commission restored it. Since then conditions have changed, and the reasons for its retention appear to be no longer valid. An examiner of the commission has recommended its removal, but the commission itself has not been able to agree whether it should be removed or only reduced. Meantime the Senate has twice passed a bill for its repeal, but so far the House has failed to act.

It has been objected that a bill of this character puts rate-making into the hands of Congress. The measure now before Congress, however, prescribes no rates, but leaves that function to the Interstate Commission, where it properly belongs. It merely prescribes a policy which the commission is to follow by stipulating that there shall be no discrimination or double charges for the same service. The Pullman surcharge is in effect a double payment, for which the passenger gets nothing in return. Its proceeds do not go to the Pullman Co., which renders the special service, but to the railway company.

As a second objection to the repeal of the surcharge it is urged that the roads badly need the money. Whether they do or not, a discrimination against one class of traffic is hardly the proper way to get it.

JURISDICTION OF UNITED STATES DISTRICT COURTS

Mr. VANDENBERG presented excerpts from letters relative to the bill (S. 3151) to limit the jurisdiction of the district courts of the United States, which were ordered to lie on the table and to be printed in the RECORD, as follows:

[Excerpt from letter dated April 24, 1928, at Detroit, Mich., addressed to Senator VANDENBERG by Wilson W. Mills, of Campbell, Buckley & Ledyard]

My attention has just been called to the Norris bill (S. 3151), introduced by Senator NORRIS, of Nebraska, and being a bill to limit the jurisdiction of the district courts of the United States.

The effect of this bill is to deprive the Federal courts of jurisdiction in actions arising under the Constitution or laws of the United States and between citizens of different States; in fact, takes away the jurisdiction of the district court in all cases except where the United States is plaintiff.

In my opinion this bill is the most revolutionary and vicious one that has come to my attention in several years.

———

[Excerpt of letter dated April 23, 1928, at Grand Rapids, Mich., to Senator VANDENBERG from Benjamin P. Merrick, president of the Grand Rapids Bar Association]

I have had brought to my attention the fact that the Senate Judiciary Committee has reported out with recommendation of passage a bill that limits the jurisdiction of the district courts of the United States (S. 3151). After conferences with the trustees of the Grand Rapids Bar Association upon this highly revolutionary measure, I have no hesitation in expressing to you the emphatic protest of our bar at its passage.

Assuming, but not conceding, that this bill, if enacted, would be held constitutional on the ground that the Constitution leaves to Congress the establishment, and hence the definition of jurisdiction, of all courts of the United States save the Supreme Court, it can not be said that the measure reflects with much fidelity the spirit of the constitutional definition of the scope of the Federal judicial power. I refer to section 2 of Article III, which provides:

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; * * * to controversies * * * between citizens of different States, * * * and between a State or citizens thereof, and foreign States, citizens, or subjects."

Guided, I take it, by that provision of the Constitution, Congress by the act of September 24, 1789, establishing the judicial courts of the United States, gave to the circuit courts original jurisdiction of civil suits where the matter in dispute exceeded $500, and where an alien was a party or where the suit was between a citizen of the State where the suit was brought and a citizen of another State.

From 1789 to 1928 this jurisdiction, based on diversity of citizenship, so manifestly in harmony with the scheme of the Constitution, has continuously resided in the inferior courts of the United States, and any proposal to sweep it away so revolutionary in character as the pending measure should rest upon more cogent reasons than any to be found in the report (No. 626) of the Senate Judiciary Committee.

If, as appears from that report, the committee sees injustice to small litigants in the "arbitrary distinction as to the amount in controversy," the remedy would seem to be not the sweeping away of long-established jurisdiction but the lowering of the jurisdictional amount below the present figure of $3,000, if Congress is prepared adequately to provide for the increased work of the district courts which would result therefrom. It is doubtful, however, whether the $3,000 limit is to-day more "arbitrary" than was the limitation of $500 in 1789. The principle of basing jurisdiction of courts not the lowest upon a minimum amount in controversy finds frequent expression in the statutes regulating the trial courts of the States.

I believe the bar generally will challenge the committee's assertion to the effect that the nonresident litigant, pitted against a resident, in a State court is no longer at a disadvantage. And I believe they would regard as a very real protection against local prejudice the right of a citizen of Michigan whom litigation may draw into court in any one of 47 other States, there to have recourse to the district court of the United States.

A trace of this local prejudice is discernible in the report of Senator NORRIS upon the bill. I refer to the apparent resentment against the alleged advantages enjoyed by the nonresident litigant under the present judicial system.

Be that as it may, it is fair to remember that every litigant who to-day is a "resident litigant" may to-morrow be a "nonresident litigant" seeking justice in any one of 47 other States, in which event the courts of the United States should not be closed to him after being open 139 years.

The committee report lays much critical stress upon the nonresident's right to remove to the United States district court a cause begun against him in a State court. May I suggest that if this privilege of removal is deemed by Congress to be no longer expedient, the remedy would be to curtail the statutory privilege rather than to destroy the jurisdiction? Even if it were advisable to abolish the right to remove cases, which I deny, it would not follow that a resident plantiff should be deprived of the present right to plant his suit in the Federal court in his State if he can get proper service upon the nonresident defendant.

Finally, the congestion of work in the district courts, advanced as a reason for this radical bill, is undoubtedly principally due to the great number of prosecutions for violation of the prohibition statute. If the district courts are performing increasingly, as they are, the functions of police courts, Congress should hesitate before making the position of district judge irretrievably unattractive to men of the high average caliber which has characterized thus far the men appointed to that office. Yet that is what this bill would do, I fear, if enacted into law. Men of high judicial capacity would well-nigh loathe the position if from it were taken the opportunity to hear and decide civil cases of the large and important group affected by the bill. The district courts are the proving ground for judges destined for seats on the bench of the appellate Federal courts. The importance of keeping the caliber of the Federal judges of the highest no one will deny. Any legislation which tends, as I am convinced this bill does, to render the position of district judge undesirable in the eyes of the leaders of the bar, can not but have a bad ultimate effect upon the quality of the Federal bench.

Mr. FLETCHER. Mr. President, in connection with Senate bill 3151, I present a letter received from Judge Robert W. Bingham, of Kentucky, and ask that it be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE COURIER-JOURNAL, THE LOUISVILLE TIMES,
April 24, 1928.

Senator DUNCAN U. FLETCHER,
Washington, D. C.

DEAR SENATOR FLETCHER: I have learned that the Senate Judiciary Committee has recently reported favorably Senate bill 3151, taking away from Federal district courts all Federal jurisdiction based on diversity of citizenship or any Federal question.

As you so well know, this Federal jurisdiction has been a part of our law since the act of 1789, the only important change during that period having been the raising of the amount in controversy from $500 to $3,000. I believe this matter is one which gravely concerns the whole country. For example, if it were necessary to foreclose a bond issue of a railway traversing several States, if the Federal jurisdiction were withdrawn, the difficulty of such a proceeding would be almost insuperable, since it would probably involve filing suits, if not in every county through which the railway passed, at least in every State, circuit, or district court through which it passed, and even if this difficulty is not insuperable, at least it would enormously increase the cost of such a proceeding and correspondingly reduce any amount which investors in the property as bondholders might receive. In addition, the comparatively undeveloped parts of the country require capital for their development.

I believe the constructive progress of the country would be seriously impeded if investors were deprived of the opportunity to litigate in the Federal courts.

The East and the Middle West will probably require a comparatively small amount of outside capital for their further development, but there are great areas in our country, particularly in the West and in the South, which will need a large amount of outside capital for years to come, and I am confident that the passage of such an act as the bill referred to would seriously retard the growth and progress of many of the States in this western and southern area.

While I am sure you will give this matter serious consideration, I am taking the liberty of writing to you on the subject, because I am alarmed at the thought of the disastrous result which I believe would result inevitably from the passage of such legislation.

Yours very truly,

R. W. BINGHAM.

Mr. FLETCHER. I also have an opinion as to the scope and effect of Senate bill 3151, written by Mr. Henry M. Ward, of Washington. It is rather long to print in the RECORD, but the conclusions are brief, and I ask that the summary be printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

There being no objection, the matter was ordered to be printed in the RECORD, as follows:

SUMMARY

(1) The bill if enacted could not be set aside by the courts as in violation of the Constitution of the United States.

(2) It would deprive the Federal courts of their most important classes of civil jurisdiction.

(3) It would in effect give to the courts of the respective States (except as noted above at pages 3, 4, and 5) exclusive original jurisdiction of all civil cases arising under the Constitution and laws of the United States and treaties made under their authority and of all suits of a civil nature between citizens of different States, including corporations organized under the laws of different States and between citizens of the United States and foreign States, citizens, or subjects.

(4) It would deprive the district courts of their power to remove such cases from the State courts.

(5) The right to have certain questions decided by the highest courts of the respective States, arising under the Constitution, laws, and treaties, reviewed by the Supreme Court of the United States upon writ of error and the right to petition that court for a writ of certiorari to review certain other similar questions are wholly inadequate for the protection of the rights, privileges, and immunities conferred by the Constitution and the laws and treaties of the United States.

(6) To a substantial extent the officers of the United States in enforcing Federal laws would be subject to be enjoined by, and to suits for damages in, the State courts, and the National Government would be pro tanto without power to enforce the laws of the Nation. In many instances the Federal courts would be without power to protect the grantees and licensees of the United States in the exercise and enjoyment of rights granted by the Federal laws and treaties.

(7) The effect of eliminating the Federal jurisdiction over controversies between citizens of different States would be to jeopardize the billions of dollars of the citizens of this country invested in the securities of interstate railroads and other interstate industries, to raise the rates of interest on borrowed capital, to sweep aside the authority of the decisions of the Supreme Court of the United States and other Federal courts on questions of general law, and thereby to imperil existing investments, industries, and rights entered into and acquired in reliance upon these decisions.

(8) The bill if enacted would inflict incalculable harm upon the citizens of this country and would be clearly in violation of the duty imposed on Congress by the Constitution of the United States.

HENRY M. WARD.

APRIL 20, 1928.

REPORTS OF COMMITTEES

Mr. BINGHAM, from the Committee on the Library, to which was referred the bill (S. 2069) to extend the provisions of section 1814 of the Revised Statutes to the Territories of Hawaii and Alaska, reported it with amendments and submitted a report (No. 898) thereon.

Mr. ASHURST, from the Committee on Indian Affairs, to which was referred the bill (S. 3770) authorizing the Federal Power Commission to issue permits and licenses on Fort Apache and White Mountain Indian Reservations, Ariz., reported it without amendment and submitted a report (No. 899) thereon.

Mr. KENDRICK, from the Committee on Indian Affairs, to which was referred the bill (S. 2330) authorizing reconstruction and improvement of a public road in Wind River Indian Reservation, Wyo., reported it with an amendment and submitted a report (No. 900) thereon.

Mr. KEYES, from the Committee on Public Buildings and Grounds, to which was referred the bill (S. 4035) authorizing conveyance to the city of Hartford, Conn., of title to site and building of the present Federal building in that city, reported it without amendment and submitted a report (No. 901) thereon.

CONFEDERATE VETERANS' REUNION AT LITTLE ROCK, ARK.

Mr. SWANSON. From the Committee on Naval Affairs, I report back favorably, without amendment, the bill (S. 4180) authorizing the attendance of the Marine Band at the Confederate Veterans' Reunion at Little Rock, Ark. I call the attention of the Senator from Arkansas [Mr. ROBINSON] to the report.

Mr. ROBINSON of Arkansas. Mr. President, I desire to make a brief statement and also to ask unanimous consent for the present consideration of the bill.

On May 8 next the annual convention of the National Confederate Veterans will be held in the city of Little Rock, Ark. The President was invited to attend the convention and a request was submitted that the Marine Band be authorized to participate in the concerts there. The President found himself unable to attend the convention, but, as I am informed, he

is in sympathy with the purpose to have the Marine Band at the reunion. It is necessary, however, to pass this bill in order to provide for the expense that is to be incurred.

The number of Confederate veterans who survive is comparatively small. They will come from almost every State in the Union. They are approaching the time when it will be impossible for these old soldiers to assemble in reunions. These events have become in a large degree patriotic celebrations, and it will be an act of good will, heartily appreciated by the people of the entire Southland, if Congress makes arrangements for the Marine Band to attend this reunion.

I realize that this is a somewhat unprecedented course to pursue, but, as the Senate well knows, I have been unable to be in attendance on the sessions of the Senate for some days, and the time is now so short before the convention will meet that I feel constrained to ask for this action at this time.

By unanimous consent, the Senate, as in Committee of the Whole, proceeded to consider the bill, which was read, as follows:

Be it enacted, etc., That the President is authorized to permit the United States Marine Band to attend and give concerts at the Confederate veterans' reunion to be held at Little Rock, Ark., May 8 to 11, 1928.

SEC. 2. For the purpose of defraying the expenses of the band in attending such reunion there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $7,872, or so much thereof as may be necessary.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ENROLLED BILL PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that this day that committee presented to the President of the United States the enrolled bill (S. 2126) to provide for compensation for Ona Harrington for injuries received in an airplane accident.

BILLS AND JOINT RESOLUTION INTRODUCED

Bills and a joint resolution were introduced, read the first time and, by unanimous consent, the second time, and referred as follows:

By Mr. CURTIS:

A bill (S. 4225) for the relief of Philip V. Sullivan; to the Committee on Naval Affairs.

By Mr. NORBECK (by request):

A bill (S. 4226) to amend the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service; to the Committee on Naval Affairs.

By Mr. WALSH of Massachusetts:

A bill (S. 4227) granting an increase of pension to Eva A. Hill; to the Committee on Pensions.

By Mr. McNARY:

A bill (S. 4228) to amend an act entitled "An act for making further and more effectual provisions for the national defense, and for other purposes," approved June 3, 1916, as amended; to the Committee on Military Affairs.

By Mr. BROUSSARD:

A bill (S. 4229) to extend the time for completing the construction of a bridge across the Mississippi River near and above the city of New Orleans, La.; to the Committee on Commerce.

By Mr. McMASTER:

A bill (S. 4230) to continue the allowance of Sioux benefits; and

A bill (S. 4231) to authorize a per capita payment to the Pine Ridge Sioux Indians of South Dakota; to the Committee on Indian Affairs.

By Mr. ROBINSON of Indiana:

A bill (S. 4232) granting an increase of pension to Lavenia A. Hall (with accompanying papers); and

A bill (S. 4233) granting an increase of pension to Anna Dodge (with accompanying papers); to the Committee on Pensions.

By Mr. FLETCHER:

A bill (S. 4234) authorizing the purchase of certain lands by John P. Whiddon; to the Committee on Public Lands and Surveys.

By Mr. MOSES:

A bill (S. 4236) granting an increase of pension to Theresa A. Whipple (with accompanying papers); to the Committee on Pensions.

By Mr. KEYES:

A bill (S. 4237) for the relief of Antoine Laporte, alias Frank Lear; to the Committee on Military Affairs.

By Mr. REED of Pennsylvania:

A bill (S. 4238) for the relief of Robert M. Foster; to the Committee on Claims.

By Mr. CAPPER:

A joint resolution (S. J. Res. 138) to provide for the designation of the route of the National Old Trails Road and the markers thereon; to the Committee on Agriculture and Forestry.

DISTINGUISHED-FLYING CROSS

Mr. BINGHAM. Mr. President, in the Army Air Corps bill which was recently passed by Congress, no provision was made permitting the President to present the distinguished-flying cross to any except members of the armed forces of the United States. Since that bill was passed there have arrived in this country several distinguished aviators, from Italy, from Germany, from France, and from Ireland, and in order that in the future the President may have the power to present the distinguished-flying cross to foreign aviators who make great flights, I introduce a bill to amend that section of the act which provides for the distinguished-flying cross.

The bill (S. 4235) to amend section 12 of the act entitled "An act to provide more effectively for the national defense by increasing the efficiency of the Air Corps of the Army of the United States, and for other purposes," approved July 2, 1926, was read twice by its title and referred to the Committee on Military Affairs.

Mr. BINGHAM. Mr. President, I submit an amendment to the bill (S. 4218) introduced by the Senator from Pennsylvania [Mr. REED] yesterday authorizing the President to present the distinguished-flying cross to the German and Irish aviators who have just arrived on this continent, by including in the bill the French aviators who came first across the South Atlantic, and who were received by the Congress not long ago; and the Italian aviator, Col. Francesco de Pinedo, who came here after flying a distance of 25,000 miles from Rome. I ask that it may be referred to the Committee on Military Affairs and printed.

The amendment submitted by Mr. BINGHAM to the bill (S. 4218) to authorize the President to present the distinguished-flying cross to Ehrenfried Gunther von Huenefeld, James C. FitzMaurice, and Hermann Koehl was referred to the Committee on Military Affairs and ordered to be printed.

WRITS OF ERROR

Mr. FLETCHER submitted an amendment intended to be proposed by him to the bill (H. R. 12441) to amend section 2 of an act entitled "An act in reference to writs of error," approved January 31, 1928, Public, No. 10, Seventieth Congress, which was referred to the Committee on the Judiciary and ordered to be printed.

AMENDMENT TO BOULDER DAM BILL

Mr. ASHURST. Mr. President, I present an amendment to Senate bill 728, the Boulder Dam bill. As the debate proceeds on this bill I shall offer other amendments thereto. I ask that the amendment be read. I am willing to spare the Senate the burden at this time of listening to the reading of this amendment, if I may secure now the appropriate order of the Senate declaring that the introduction of this amendment and the printing of the same in the RECORD shall, for the purposes of Rule XXII of the Senate and of all other rules of the Senate, be deemed to declare that the same has been read. Otherwise I must insist that the same be read.

Mr. CURTIS. The Senator wants to have it printed as an amendment and to lie on the table?

Mr. ASHURST. Yes; but that would not suffice. In order to secure for this amendment its parliamentary status, its place, its dignity, and its right to be considered as an amendment, I must insist that the amendment be read, or that by unanimous consent it be considered by the Senate as read, and unanimous consent further that the fact that the Senate considers these amendments as actually read shall give the amendment the same right and status as required by Senate Rule XXII or any other rule of the Senate.

Mr. CURTIS. I should judge there would be no objection to that.

Mr. JOHNSON. The suggestion is that the amendment be considered as read?

Mr. ASHURST. Yes.

Mr. JOHNSON. I have no objection.

Mr. ASHURST. Then, Mr. President, as to the various amendments I shall introduce to this Boulder Dam bill I shall take the liberty to mark each and all of them as read, and am I now to understand that with the printing of them in the RECORD they shall have the same dignity, parliamentary right, place, and status under Rule XXII and all of the rules of the Senate as if they were read?

Mr. JOHNSON. Yes; provided the Senator calls attention to the fact of their introduction at the time they are introduced.

Mr. ASHURST. I shall do so and print them in the RECORD.

Mr. JOHNSON. Yes.

The PRESIDING OFFICER. Without objection, that order will be entered.

Mr. ASHURST'S amendment to Senate bill 728 was ordered to lie on the table, to be printed, and to be printed in the RECORD, as follows:

On page 2, line 24, after the word "purposes," insert the following: "*Provided*, That no appropriation for construction under the gravity plan shall be made until a compact shall have been entered into between the States of Wyoming, Colorado, Utah, New Mexico, Nevada, California, and Arizona, either to determine the allocation of waters and definite storage elevation and areas or to determine the basic principles that for all times shall govern these matters: *And provided further*, That the passage of this act shall not in any respect whatever prejudice, affect, or militate against the rights of the State of Arizona or the residents or the people thereof, touching any matter, or thing, or property, or property interests relative to the construction of the Colorado River Boulder Dam project."

INVESTIGATION RELATIVE TO EMPLOYMENT AND UNEMPLOYMENT

Mr. LA FOLLETTE submitted a concurrent resolution (S. Con. Res. 16), which was read, as follows:

Whereas many investigations of unemployment have been made during recent years by public and private agencies; and

Whereas many systems for the prevention and relief of unemployment have been established in foreign countries and a few in this country; and

Whereas information regarding the results of these systems of unemployment, prevention, and relief are now available; and

Whereas it is desirable that these investigations and systems be analyzed and appraised and made available to the Congress: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That a joint committee of Congress, to consist of three members of the Committee on Education and Labor of the Senate and three members of the Committee on Labor of the House of Representatives to be elected by the respective committees, is authorized and directed to make an investigation concerning (a) the continuous collection and interpretation of adequate statistics of employment and unemployment; (b) the organization and extension of systems of public employment agencies, Federal and State; (c) the establishment of systems of unemployment insurance or other unemployment reserve funds, Federal, State, or private; (d) the planning of public works with regard to stabilization of employment; and (e) the feasibility of cooperation between Federal, State, and private agencies with reference to (a), (b), (c), and (d). Such committee shall meet and organize as soon as practicable after a majority of the members have been chosen and shall elect a chairman and vice chairman from among its members. For the purposes of this resolution such committee or any subcommittee thereof is authorized to hold hearings and to sit and act at such times and places; to employ such experts and clerical, stenographic, and other assistants; to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents; to administer such oaths and to take such testimony and make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of such committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives upon vouchers approved by the chairman or the vice chairman. Such committee shall make a final report to the Congress as to its findings, together with such recommendations for legislation as it deems advisable, at the beginning of the second regular session of the Seventieth Congress.

Mr. LA FOLLETTE. Mr. President, I have introduced this resolution because I believe that the problem of relief and prevention of unemployment to be one of the most serious economic questions confronting the country to-day. It is a startling fact that there has been practically no consideration of the problem of unemployment and methods of dealing with it by this Government. We have spent hundreds of thousands of dollars—in fact, millions of dollars—in gathering information and statistical data concerning crops, concerning manufactures, concerning output of products, but we have to-day in this country no dependable statistical information concerning the problem of unemployment and the number of unemployed.

This problem presents itself through all the history of this Government. Fifteen times in the last 110 years we have had serious depression, with resultant unemployment. It has come alike under Democratic and Republican administrations. It is not a political problem; it is an economic problem of the most serious import, and it seems to me the time has come when Congress should give consideration to the solution of this question.

Therefore, Mr. President, I have introduced this resolution with the idea that a comprehensive survey, study, and evaluation of the existing information, not only in this country, but in the countries of Europe, where they have recognized this problem and attempted to deal with it, would be of tremendous value to the Congress and should result in constructive legislation.

When we stop to consider that there are 35,000,000 people in this country who are earning their daily bread by the sweat of their brow, when we stop to consider that their incomes total $40,000,000,000, or so it is estimated, we realize that we have a question which affects not only the men and women who labor and their families, but that it also most vitally affects the entire social and economic fabric of the Nation.

For these reasons I shall urge upon the Committee on Education and Labor of the Senate the early consideration and report of this resolution. The hour of 2 o'clock is at hand, and I shall not attempt to discuss this matter further at this time, but I shall discuss it at some later date.

Mr. President, I move that the concurrent resolution be referred to the Committee on Education and Labor.

The motion was agreed to.

COTTON CROP PREDICTIONS

Mr. HEFLIN. Mr. President, there is on the calendar a bill, introduced by me, Senate bill 3845, to prohibit predictions with respect to cotton or grain prices in any report, bulletin, or other publication issued by any department or other establishment in the executive branch of the Government. The bill is not now objected to, and I ask unanimous consent that it be considered and passed. I am going to be called from the Chamber for a little while, and I would like to have this bill passed before 2 o'clock.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

Mr. BINGHAM. Let it be stated.

The bill was read by title.

Mr. HEFLIN. The bill has been amended and the provision relating to grain stricken out.

Mr. CURTIS. When this measure was reached on the calendar the other day it was objected to by the Senator from Rhode Island [Mr. METCALF]. Has the Senator talked with that Senator and is he satisfied?

Mr. HEFLIN. I have spoken to him——

Mr. JONES. Mr. President, I think I received some objections to the bill this morning, either by letter or telegram.

Mr. HEFLIN. Let me explain to the Senator. There was objection in the committee because the bill included grain, but upon the suggestion of the Senator from Oregon [Mr. MCNARY], the Senator from Kansas [Mr. CAPPER], the Senator from South Dakota [Mr. NORBECK], and others grain was stricken out of the bill entirely, so it now touches nothing but cotton.

Mr. JONES. I think I shall have to ask that it go over until to-morrow. Then I will take it up with the Senator. I suggest that the Senator withdraw it for to-day and renew his request to-morrow. Is it on the calendar?

Mr. HEFLIN. Yes; and I have sought to bring it up twice before, but Senators wanted to look into it, and they keep on looking into it. Will not the Senator withdraw his objection?

Mr. JONES. I want to look at these telegrams and letters from my constituents. I think I owe that to them. They mentioned this particular bill and I want time to look into it. I have not had time this morning.

Mr. HEFLIN. This touches cotton only, and I can not see why the grain interests would want to keep us from providing a penalty as is provided in this bill.

Mr. JONES. These communications were not from grain interests.

The PRESIDING OFFICER. Objection is made to the present consideration of the bill.

PRODUCTION OF TUNGSTEN

The PRESIDING OFFICER. The Chair lays before the Senate a resolution coming over from the previous day, which will be read.

The resolution (S. Res. 203) submitted by Mr. ODDIE on the 20th instant was read and agreed to, as follows:

Resolved, That the United States Tariff Commission be, and it is hereby, requested, under the provisions of section 315 of the tariff law of 1922, to make forthwith an investigation into the costs of production of tungsten in the United States and China, the principal competing country, and to report its findings to the President of the United States.

LANDS FOR ACOMA PUEBLO INDIANS

Mr. CUTTING. Mr. President, I desire at this time to enter a motion that the vote by which House bill 11479, to reserve

certain lands on the public domain in Valencia County, N. Mex., for the use and benefit of the Acoma Pueblo Indians was passed, be reconsidered, and I move that the House be requested to return the bill to the Senate.

Mr. BRATTON. Mr. President, in this connection I want to make a statement. That is a bill which was introduced in the House of Representatives by the Representative from New Mexico. When it reached this body it went to the Committee on Indian Affairs, and on behalf of that committee I made a favorable report on the bill. I favor the bill, but I do not want it to be enacted into law without my colleague's consent, and I am entirely willing that the vote shall be reconsidered in order that he may have ample time to investigate the situation. The vote was taken on day before yesterday.

The PRESIDING OFFICER. The motion to reconsider will be entered. The question is on agreeing to the motion of the junior Senator from New Mexico that the House be requested to return the bill to the Senate.

The motion was agreed to.

NAVAL APPROPRIATIONS—MARINES IN NICARAGUA

Mr. GLASS. Mr. President, I desire to say in a word that I was unavoidably absent from the city yesterday when a vote was taken on the so-called Nicaraguan amendments to the naval appropriation bill. Had I been present, I should have been recorded as voting against the proposed amendments.

In view of the general newspaper report that the action of the Senate is taken as an approval of the course of the President in dealing with Nicaragua, I desire to state that I would not have voted in the way I have indicated as an indorsement of the course of the President, because I think that in sending troops to Nicaragua the President had no constitutional or statutory warrant. I think he made a very grave mistake, which, had it been made with respect to one of the major nations of the earth, might and very likely would have resulted in dangerous and disastrous consequences.

Therefore my vote in no sense would have been an approval of the course of the Executive, but merely in favor of maintaining the moral obligation of this Nation under its contractual relations, albeit the contract should never have been made. My vote would simply have confirmed the good faith of that contract.

Mr. FLETCHER. Mr. President, in connection with what the Senator from Virginia [Mr. GLASS] just said, I want to add my concurrence and to suggest a further objection to the amendment proposed against which he said he would have voted if he had been present yesterday, to wit, the offense of attempting to place important legislation on an appropriation bill, especially to attempt to define the foreign policy of the United States by an amendment to such a bill, and in view, further, of the fact that the bill was an appropriation bill which would lose its force and would expire and end at the termination of one year. These seem to me to be insuperable objections which might be added to what the Senator from Virginia said.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 10141) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. KNUTSON, Mr. ROBSION of Kentucky, and Mr. HAMMER were appointed managers on the part of the House.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2900) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors.

PENSIONS AND INCREASE OF PENSIONS

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 10141) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. NORBECK. I move that the Senate insist on its amendments, agree to the conference asked by the House, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. ROBINSON of Indiana, Mr. NORBECK, and Mr. STECK conferees on the part of the Senate.

PENSIONS AND INCREASE OF PENSIONS

Mr. NORBECK submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2900) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent relatives of such soldiers and sailors, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 7, 15, 18, 21, 24, 36, 41, 53, 58, 64, 65, 67, 68, 71, 74, 80, 81, 82, 94, 99, 106, 117, and 126.

That the Senate recede from its disagreement to the amendments of the House numbered 1, 2, 2½, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 17, 19, 20, 22, 23, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 39, 40, 42, 43, 44½, 45, 46, 47, 48, 49, 50, 50½, 51, 52, 54, 55, 56, 57, 59, 60, 61, 62, 63, 66, 69, 70, 72, 73, 75, 76, 77, 78, 79, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 95, 96, 97, 98, 100, 101, 102, 103, 104, 105, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 118, 119, 120, 121, 122, 123, 124, 125, and 127, and agree to the same.

Amendment numbered 16: That the Senate recede from its disagreement to the amendment of the House numbered 16, and agree to the same with an amendment as follows: Restore lines 14 to 17, inclusive, and lines 22 to 24, inclusive, on page 11; and the House agree to the same.

Amendment numbered 44: That the Senate recede from its disagreement to the amendment of the House numbered 44, and agree to the same with an amendment as follows: Restore lines 10 to 13, inclusive, on page 23; and in line 10, after the word "Weaver," insert the word "former"; and the House agree to the same.

Amendment numbered 93: That the Senate recede from its disagreement to the amendment of the House numbered 93, and agree to the same with an amendment as follows: Restore lines 17 to 20, inclusive, on page 45; and in line 20 strike out the numerals "$30" and insert the numerals "$20"; and the House agree to the same.

Amendment numbered 128: That the Senate recede from its disagreement to the amendment of the House numbered 128, and agree to the same with an amendment as follows: On page 156 of the engrossed amendments, in line 20, strike out the numerals "$30" and insert the numerals "$20," and on page 180 of the said engrossed amendments strike out the following language:

"The name of Allie Crabb, widow of Mark M. Crabb, late of Company H, Seventy-eighth Regiment Pennsylvania Volunteer Infantry, and pay her a pension at the rate of $30 per month."

And the House agree to the same.

PETER NORBECK,
LYNN J. FRAZIER,
Managers on the part of the Senate.

W. T. FITZGERALD,
RICHARD N. ELLIOTT,
MELL G. UNDERWOOD,
Managers on the part of the House.

The report was agreed to.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts:

On April 24, 1928:

S. 1771. An act for the relief of Peter S. Kelly; and

S. 2725. An act to extend the provisions of section 2455, United States Revised Statutes, to certain public lands in the State of Oklahoma.

On April 25, 1928:

S. 3640. An act authorizing acceptance from PETER G. GERRY of the gift of the law library of the late Elbridge T. Gerry.

On April 26, 1928:

S. 1736. An act for the relief of Charles Caudwell;

S. 1738. An act for the validation of the acquisition of Canadian properties by the War Department and for the relief of certain disbursing officers for payments made thereon; and

S. 2948. An act to amend section 6, act of March 4, 1923, as amended, so as to better provide for care and treatment of members of the civilian components of the Army who suffer personal injury in line of duty, and for other purposes.

INTERNATIONAL CONFERENCE ON LITERARY AND ARTISTIC PROPERTY
(S. DOC. NO. 89)

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read, and, with the accompanying paper, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report from the Secretary of State recommending a request to Congress for legislation authorizing an appropriation of $1,500 for the expenses of a delegate of the United States to the International Conference on Literary and Artistic Property to open at Rome, Italy, on May 8, 1928.

I am strongly in favor of this, and trust that the appropriation may be promptly granted in view of the short interval of time remaining before the opening meeting.

CALVIN COOLIDGE.

THE WHITE HOUSE, *April 26, 1928.*

BOULDER DAM

The PRESIDING OFFICER (Mr. COUZENS in the chair). The hour of 2 o'clock having arrived, the Chair lays before the Senate the unfinished business, Senate bill 728.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 728) to provide for the construction of works for the protection and development of the lower Colorado River Basin, for the approval of the Colorado River compact, and for other purposes.

Mr. JOHNSON obtained the floor.

Mr. McNARY. Mr. President, will the Senator yield that I may call for a quorum?

Mr. JOHNSON. I yield.

Mr. McNARY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Edge	La Follette	Sackett
Barkley	Edwards	Locher	Schall
Bayard	Fess	McKellar	Sheppard
Bingham	Fletcher	McMaster	Shortridge
Black	Frazier	McNary	Simmons
Blaine	George	Mayfield	Smoot
Blease	Gerry	Metcalf	Steck
Borah	Glass	Moses	Steiwer
Bratton	Gould	Neely	Stephens
Brookhart	Harris	Norris	Swanson
Broussard	Harrison	Nye	Thomas
Capper	Hayden	Oddie	Tydings
Caraway	Heflin	Overman	Tyson
Couzens	Howell	Phipps	Vandenberg
Curtis	Johnson	Pittman	Wagner
Cutting	Jones	Ransdell	Walsh, Mont.
Dale	Kendrick	Reed, Pa.	Warren
Deneen	Keyes	Robinson, Ark.	
Dill	King	Robinson, Ind.	

Mr. JONES. I was requested to announce that the Senator from West Virginia [Mr. GOFF], the Senator from Idaho [Mr. GOODING], and the Senator from Montana [Mr. WHEELER] are detained from the Chamber in committee.

The PRESIDING OFFICER (Mr. McNARY in the chair). Seventy-four Senators having answered to their names, a quorum is present. The Senator from California will proceed.

Mr. JOHNSON. Mr. President, in presenting the pending bill it is my purpose, very inadequately and quite briefly, first to tell something of the background or the history of the proposed legislation, and thereafter to take the bill, section by section, so far as I can, and explain the reasons for the various provisions in the measure and the necessity for its passage. In thus presenting the question, I ask the consideration of the Senate that I may not be interrupted during that endeavor; and I say to the Senate, and to each individual Member, that when I shall have concluded with the presentation I shall be very glad, indeed, to endeavor to answer any questions that may be propounded.

Mr. President, the legislation does not fall within the category of twice-told tales. It is an oft-repeated story of what should be the design of a legislative body in response to the necessities and the requirements of a large part of our people. The legislation, sir, had its origin in very small beginnings of a hardy race of pioneers who treked across the continent and founded a new empire in the great southwestern portion of the United States. It had its very small beginnings in their cry for aid to the Congress of the United States, and to-day, sir, it has become, with the lapse of time, one of the most important pieces of legislation pending before the Congress. It is an important piece of legislation, first, because it is the greatest constructive work now pending in the country, the greatest constructive work of our generation; and, secondly, and equally important, because it is the test in the Congress of the United States of whether there are the power and the courage in the Congress, in the face of great private interests and enormous amounts of wealth, to enact legislation which is required by a part of the people of the Nation. Important, sir, in every aspect it is, then; and I speak advisedly when I say that it is the greatest work of its character ever undertaken by legislation, the greatest constructive undertaking that man has ever set himself to.

If there were such a thing as imagination in this body, that imagination would be fired by the endeavor to accomplish a monumental work such as is contemplated by the pending measure. But whether we be wholly practical or whether there be any imagination among us, nevertheless, the work which is sought to be done is of a character incomparable in all the world, and, therefore, is entitled to the interest—not only the interest but the closest consideration and most careful study—of every man who presumes to represent the people upon this floor or in either House of Congress.

The measure deals with the Colorado River in part. The Colorado River is one of the great streams of the world. It is the third largest river in the United States. It has its source way up in the northwestern portion of the State of Wyoming, where, singularly enough, within the radius of 150 miles three great rivers of the United States have their highest source—the Columbia, the Missouri, and the Colorado. The Colorado, meandering down from the northwestern part of Wyoming, traverses seven States of the Union, and after passing a short distance through Mexico flows finally into the Gulf of California.

The Colorado is a peculiar and remarkable river, with characteristics such as are possessed by no other stream, I take it, in all the world. Sir, in its torrential moods it has torn in Mother Earth great chasms, which present a marvelous scenic effect such as can be witnessed in no other locality. In its sluggish times it has deposited its silt along its course in the years and years gone by until, with that deposit of silt in the Imperial Valley and just south of the Imperial Valley, it has built up a territory more fertile than the valley of the Nile, and which is unrivaled in any other place on earth. It has built its chasms throughout the great mountains with its torrential floods. It has built this territory, rich in productivity, with the carrying and deposit of the silt that is a part of that river. In drought and in flood it has equally been the enemy of man. It is in the endeavor to transmute this river, which has been a menace in all of its moods, into an asset nationally that the bill is presented to the Congress.

The purposes of the bill, sir, are many, five, in reality, under general heads. It seeks, first, flood control; next, irrigation and reclamation of arid lands. Thirdly, it seeks to solve an intolerable international situation. Fourthly, it endeavors to provide water for domestic purposes to the coastal cities of southern California. Fifthly and lastly, it endeavors, by the generation of electrical power, to furnish the means for payment of the entire plan and the whole scheme, so that the United States Government shall not be in any way drawn upon ultimately for the expenditure of a single cent for this great undertaking.

At the beginning of what I say to-day, at the end of the argument whenever that shall occur, whether within a week or a day or a month or a year or a lifetime—at the beginning and at the end of the argument upon the pending measure, I want to make plain to those who do me the honor to listen to me that under the provisions of the measure the United States Government will not be required ultimately to pay a single dollar. I iterate and reiterate this, sir, because again and again in newspapers which publish their articles for one reason or another, by individuals who make their assertions for one cause or another, repeatedly it has been asserted that under the measure the taxpayers of the United States will be required to go deep into their pockets in order to afford some benefit to the people in the southwestern portion of our country.

Not so, sir; not so at all. Nothing will be required from the United States Government ultimately. The provisions of the bill emphatically make that plain, as we will see when we reach those provisions. No sum is asked from the United States Government in this plan. Before there can be a shovelful of earth turned or a single dollar expended the United States Government must have in its hands wholly executed contracts which will repay every penny contemplated to be expended under the bill.

Never before in any measure of this magnitude or of this character has such a provision been presented; and I repeat, because of the misrepresentation which has been indulged all over this land, that the taxpayers will be mulcted not of a single penny by the passage of this bill. Taxes will be increased not a farthing. No community, no individual, will be required to pay a single cent toward this project. Every bit of money that may be expended upon it must be paid out of the project itself, and the Government of the United States must be satis-

fied upon that point before it begins any activity of any kind or any character.

Flood control, sir, is the first purpose of the measure. That this is a national purpose none, of course, will gainsay. We have demonstrated that upon the flood control bill of the Mississippi River recently; so that there are none to be heard to-day who will not say that when flood control is necessary for the protection of peoples or of territory within the United States the problem becomes one national in character, that the Nation itself must provide for, and the Nation itself must endeavor to accomplish.

Flood control, sir, is here the first desideratum—flood control in order to protect against threatened dangerous floods parts of Arizona and the Imperial Valley in the State of California; and that you may understand something of what this flood menace is let me describe to you, as it has been described again and again, the peculiar topographical character of the Imperial Valley.

There, sir, is a soil made by the Colorado River. There, sir, is a soil that through the ages has come by the filling up of a part of the Gulf of California. It is below sea level; and the Imperial Valley is like the base of a saucer, while around the rim of the saucer flows the Colorado River. The Colorado River flows upon an eminence above the valley itself, threatening constantly inundation of the valley, and threatening that inundation, sir, not alone because of the periodical turbulence of the Colorado River and its occasional great floods but threatening it because the bottom of the river is being gradually filled with the silt that is carried by the water itself and because the levees, that have served as a temporary protection to the Imperial Valley, have now reached the height where danger finally exists, and they can be erected and constructed to very little greater height.

The silt carried by the Colorado River constitutes one of its menaces. In a single year it carries in quantity an amount equal to the total excavations of the Panama Canal.

In 1905 and 1906 there were disastrous floods in the Imperial Valley; and that they are disastrous and different in kind from the floods which occur in every other part of the United States will be obvious to you when you realize that a flood in the Imperial Valley means that the water goes down below sea level. It has no outlet at all; and only the slow process of evaporation will enable the water that inundates the valley to be dissipated from the land upon which it may flow.

A flood upon the Mississippi may be a catastrophe at which all of us stand aghast. A flood in the Imperial Valley is a very different sort of thing. In the Mississippi Valley there will be disaster and there will be loss and there will be lands for the moment covered with the great rushing torrent. But lands may ultimately be reclaimed. Losses may finally be remedied.

In the Imperial Valley there is no such thing as reclamation; once the water goes down 250 feet below sea level into that valley from the dikes that surround it, no method in which there can be rescue of the valley; and total annihilation results. Floods, therefore, are in the Imperial Valley more to be dreaded, more to be feared, and more disastrous in their consequences than floods in any other place and from any other river.

A quarter of a century ago the Imperial Valley was a mere desert waste. I can recall the time—and I can recall it, too, as if it were but yesterday—when men adventured across those desert wastes, and for their daring found themselves lost in the dreary sands, and oftentimes their lives were forfeited. To-day in the Imperial Valley there are five or six growing, beautiful little cities, 65,000 people, and more than $100,000,000 of wealth; and in the brief period of a quarter of a century those people have builded from this arid desert waste a territory second to none on earth in its fertility and in its productivity.

I hear occasionally the objection made by some of our brethren who are engaged in agricultural pursuits, and some of the gentlemen who come from the South, that they do not desire to see lands brought into productivity under a bill of this kind, because it will cause increased competition in agriculture and will, with additional lands reclaimed and devoted to cotton, reduce possibly the prices of that commodity.

It is not so with the ordinary production in the Imperial Valley. With the production of cotton it has been demonstrated in late years that it can not be so; and that you may understand something of that which is produced from the Imperial Valley let me say to you that last year—in 1927—17,764 carloads of cantaloupes were shipped from that valley that come in competition with no other product in the production of which the constituents of any Senator upon this floor may be engaged. Eight thousand nine hundred carloads of lettuce were shipped in 1927, in December, January, February, and March. Three thousand five hundred carloads of watermelons were shipped in May and June, mostly to the Pacific coast; and the rest of the produce that came from the valley in the main was shipped within the State of California for consumption there.

The Imperial Valley has been described, perhaps accurately, as the greenhouse of the whole United States. What is raised there profitably comes in competition with nothing that is raised in any other part of our country. I want to impress that upon some of the gentlemen who have talked to me about the productivity of the Imperial Valley and new lands coming in under the reclamation provisions of this bill.

What is raised in the Imperial Valley is peculiar to itself, comes into market at a time when it does not conflict with any other produce in this country, and has no competitive advantage or otherwise with the produce that is raised in any other part of our land.

I heard the other day, from one of our brethren from the Southern States, something said about what might happen to cotton in the South if the Imperial Valley were permitted to reclaim other lands, and if Arizona were permitted to reclaim other of her lands. I have here the statistics of the cotton crops of the Imperial Valley in the last few years, and I may state in general terms that constantly and yearly the production of cotton in the Imperial Valley has decreased—decreased in such marked proportions that it is obvious that in a very brief period no longer will cotton be produced in the Imperial Valley at all. The reason for this is the profit that is derived from the other crops; and, because the other crops can be more readily raised and the profits are greater, the acreage devoted to cotton is being gradually reduced.

In 1924 there were 20,000 bales of cotton ginned in the Imperial Valley. In 1926 there were only 6,000 bales ginned; and, during the years, down the scale has gone the number of bales of cotton ginned in the Imperial Valley, and the number of acres used.

On the other side of the line, however, where we are endeavoring to correct an international problem, there lies the danger, in Mexico; and the man who comes from a cotton State and votes against this bill upon the theory that he is aiding his cotton State, on the contrary does a great injustice and wrong to his territory, because in the days that are passing, while nothing is being done to control the Colorado River, cotton is being raised in old Mexico, and will continue to be raised there; and by preventing the adoption of a measure of this sort the competition that the southerner would wish to avoid in the raising of cotton, he invites by inviting the continuance of the production of cotton in Mexico below the line of the Imperial Valley.

In this valley now there are something like 400,000 acres of land cultivated. In Mexico under irrigation and reclamation just below the line are some 200,000 acres of land; and the cultivation in Mexico and the reclamation of lands there are increasing in greater proportion than the cultivation of lands in the United States and in the Imperial Valley.

May I say to you that the danger of flood is so great in the Imperial Valley that loans can not be obtained from the reserve banks or the farm-loan banks situated on the Pacific coast.

I hold in my hand a letter written on the 4th day of November, 1927, by the Federal Land Bank of Berkeley, Calif., in which, very tersely, this answer is made to a request for a loan in the Imperial Valley:

> Answering your favor of October 29, this bank ceased making loans in the Imperial Valley some years ago, and we must stay out of that territory until the flood hazard has been eliminated.
>
> Very truly yours,
>
> THE FEDERAL LAND BANK OF BERKELEY,
> By SIMMS ELY, *Treasurer*.

Thus we have a situation presented where there is such imminent danger of flood that the Government agencies will make no loans there. None deny it.

We have a situation presented where the Federal farm-loan banks will not lend upon land that is the most fertile land, admittedly, in all the United States.

We have a situation presented where a great river is running into the sea in flood, going to waste, and in drought doing its incalculable harm, for the danger that exists to the territory that is situated in the Southwest is twofold in character. The danger is, first, from want of water when there is little in the river and from too much water during times of flood; and that this is a real danger is obvious from the fact that only two years ago in the Imperial Valley the losses amounted to over $5,000,000—over $5,000,000 for want of water alone—and that the danger exists from flood, I think, will not be gainsaid by any, no matter who they are, upon this floor, or any of those, either friend or foe, who know the territory.

Irrigation and reclamation constitute one of the reasons for this measure. Two hundred thousand acres of land in Arizona without a pump lift may be reclaimed and irrigated under this measure. Six hundred thousand acres of land in Arizona, probably, with a pump lift that is not excessive, may be irrigated and reclaimed. Three hundred thousand acres in California without pump lift at all may be reclaimed. One hundred thousand acres with a pump lift of 50 feet may be reclaimed. All desert now; and please keep in mind that where it is sought to place this great dam is in a territory where both sides of the river are owned by the United States, and that the land between the site proposed for the great dam and the boundary of the United States and Mexico is practically composed of lands belonging to the United States of America. All the long distance from the site of the proposed dam—nearly 300 miles—to the Yuma project near the Mexican boundary is composed of lands practically in ownership of the United States.

Keeping that in mind will make plain to you some of the reasons why some of the objections which ultimately may be made to this measure need not be answered at all.

There is an international situation existing to-day in connection with the Colorado River and the Imperial Valley which this bill seeks to solve. That it should be solved the Secretary of State, the Secretary of Commerce, and the Secretary of the Interior are all agreed. That it should be solved every man who is familiar at all with that country and all who understand anything of the distribution of the waters of the Colorado River there will readily admit.

The Colorado River runs between California and Arizona and then, so far as the Imperial Valley is concerned, by its canal water is carried 60 miles through Mexico up into the Imperial Valley again. Mr. President, let me refer to the international situation which, through no fault of the people of the Imperial Valley, has been created there. The Imperial irrigation district is a going, solvent concern, the largest irrigation district in the country and probably the one that does greater work in that line than any other district in the Nation.

The Imperial irrigation district manages, of course, the distribution of water in the Imperial Valley. The ditch of that district, because originally there were few settlers in the Imperial Valley and because it seemed more economical to carry the water in that fashion, runs across into Mexico, and then for a distance of 60 miles traverses Mexican territory, until it comes up again in the Imperial Valley and distributes the water there which is the sustenance of that land. Water is everything to that territory, of course. The territory was barren waste, mere desert, at one time. Some one then discovered—and that within our lifetime—the possibilities with water put upon the land. There is no rainfall, practically, in the Imperial Valley. There are no wells there. The people of that territory are dependent not only for the irrigation of their lands upon the Colorado River and this canal which runs 60 miles through Mexico, but they are dependent, too, for their very drinking water, their domestic water, upon this Colorado River thus running.

Within a very few hours, aye, within a very few moments, in Mexican territory, the entire life of the Imperial Valley could be destroyed, or, if the ditch were cut there, or if a few sticks of dynamite were utilized by those who were hostile to us, not only would the lands be dried and the crops be destroyed, but the people themselves would be required to leave their homes because unable to obtain drinking water.

Thus it is that we have presented an intolerable international situation, an intolerable international situation which seriously affects 65,000 Americans in the Imperial Valley and Imperial County, and upon which depends $100,000,000 worth of property in the Imperial Valley.

I assume, sir, that if we were dealing only with property nearly every man here would rise in his majesty and his might and tell how property should be protected in the Imperial Valley, but there are only 65,000 American citizens—men, women and children—down there, too, and 65,000 American men, women, and children, of course, are of little consequence when we consider the wealth of a great power combination in the United States of America.

However that may be, the Secretary of State, the Secretary of Commerce, the Secretary of the Interior, every individual who has dealt with the subject in any way, or has even touched it at a tangent, agrees that there ought to be relief from that which now prevails in the Imperial Valley and from this condition of the canal that runs through Mexico for 60 miles, upon which so many people are dependent.

So, as a part of the plan of this bill an all-American canal is provided for, too, an all-American canal which will run through American territory, carrying water of an American river to Americans who reside upon American soil, so that they will not be dependent upon what may transpire in a foreign country. This all-American canal is a part of the crystallized plan that represents years and years and years of study and effort, years and years and years of endeavor by engineers and others in the United States to solve the problems of the Colorado River and the problems of the people who are dependent upon the waters of that river.

We come here to-day with no plan of yesterday; we come with no scheme of a month or a year ago; we come here, sir, with no ill-considered project that is presented by those who know little or nothing about the subject matter. We come here with a plan that saw its genesis away back in the eighties, when the Colorado River first began to be traversed and to be studied, and then that took its form and substance during all the period from Roosevelt to the present day, a scheme and a plan and a project that has had the most intensive technical study and the indorsement of the best engineering skill in the United States.

It is a difficult thing to impress this upon Members of Congress. A man comes in to-day, and he reads this bill, or he hears somebody from some place talk concerning it, and he imagines he is able to deal with the subject and to present something which shall be of value to it. It took me years—and I am no more dense or stupid than the average Senator—to understand all the complications and convolutions and all the minutiæ and all the details of the project, a project which represents the crystallized sentiment of four administrations, and of substantially every distinterested engineer who has examined this project during the last quarter of a century. So to-day we come with this unified project, solving so many different problems of the Colorado, and so many different problems of those who are residing in that particular territory. Among the solutions provided is this all-American canal.

There is one thing that the all-American canal does, and I recognize the fact that some opposition to this bill is because of the fact that it does that very thing. The all-American canal will stop the feverish activity which now exists across the American line in Mexico, will halt that feverish activity in irrigating and reclaiming lands there at the expense of lands in the United States of America.

To-day, sir, with the flow of the Colorado River unregulated, there are 600,000 acres of land practically under irrigation and reclamation. I am speaking now of the territory on the other side of Yuma. There are 400,000 in the Imperial Valley and 200,000 in Mexico. The waters of the Colorado River now unregulated are not sufficient for the irrigation and reclamation of even these lands.

Under the old contract that exists with Mexico one-half of the water that goes into the great irrigation canal of Imperial Valley as it flows through Mexico is first to be utilized by Mexican lands, and the remaining portion that flows through this 60 miles of canal and comes up then into the Imperial Valley is to be utilized by the Imperial Valley and the Imperial Valley people. The only way, I think, in which we can protect American lands is by regulating the flow of the Colorado River, and the only way in which we can regulate the flow of the Colorado River appropriately so as to do the job is by a high dam at the Boulder or the Black Canyon.

Keep in mind, please, that every acre that is now being reclaimed and irrigated on the Mexican side because of the existing contract and because the flow of the Colorado is unregulated, means an acre that will be arid, waste, and desert upon the American side. That is what the defeat of this measure means. That is what some people desire who own lands over the Mexican border. That is what some Americans, rich beyond the dreams of avarice, with 850,000 acres of land over across the border, wish. They desire that the situation shall remain as it is, or that there shall be a low dam for flood control alone, so that there may continue to be irrigation and reclamation in Mexico, irrigation and reclamation in Mexico at the expense of the irrigation and reclamation of lands in the United States of America.

The all-American canal solves this problem, and that is the reason why, in the unified scheme and the crystalized plan that has been presented here, the all-American canal is included as an integral part.

The provision for domestic water is an important although a secondary part of this measure, and domestic water can be provided for the coastal cities of southern California in just one way—from the Colorado River, and from great storage at the Boulder or the Black Canyon.

Mr. Roosevelt once said that the use of water for domestic purposes was the highest use to which water could be put, and when cities and peoples ask that they may be given

potable drinking water from a particular stream where the water to-day is wasting into the sea, they have a right to expect a ready response from those who represent them.

You may not realize how great has been the increase of population in southern California. You who come from Baltimore, for instance, you who come from a city like Detroit, let me tell you that the registration in the county of Los Angeles for the primary of those qualified to vote, and in one party in California there is no contest this year, is more than 722,000. Do you realize what that means in population, and do you realize what it means in the rapid increase in population, 722,000 qualified voters in one county in southern California to-day?

I come, sir, from what used to be the metropolis of the Pacific coast. We registered the other day 208,000 qualified voters. In Los Angeles County alone 722,000 are registered to-day for a primary election, in which there is no contest, in one of the major and the dominant parties there.

With that population, it is obvious that the efforts which have been made to provide Los Angeles with water have fallen short of what it was supposed had been accomplished. There is only one place to which Los Angeles can go to get domestic water, just one place, and that is the Colorado River. Los Angeles and the other cities of southern California will have to pay for that privilege, because, already expending millions in investigations, it is estimated that it will cost $150,000,000, with a pump lift of 1,500 feet to surmount intervening mountains to take that water from the Colorado River.

Not only has Los Angeles increased in the proportion I have indicated, but all the other southern California counties have increased in like fashion. The metropolitan water district of southern California is composed not alone of the city of Los Angeles, but of cities in Riverside, Orange, and San Bernardino Counties and other territory. Some twenty-odd municipalities are a part of the metropolitan water district there, which seeks to obtain water from the Colorado River.

The last purpose that there is in this bill is that which makes doubtful its passage. The last purpose in this bill is the generation of electrical power, the generation of electrical power at the dam for the purpose of paying for the project. It is a by-product incident to the other purposes of the bill, and a by-product in order that the whole scheme may be paid for and may be made financially sound.

Mr. TYDINGS. Mr. President, I desire to suggest the absence of a quorum, but I will not do so if the Senator from California would not like to have me do so.

The VICE PRESIDENT. Does the Senator from California yield for that purpose?

Mr. JOHNSON. I thank the Senator. I yield for that purpose.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Ashurst	Edwards	McKellar	Shortridge
Barkley	Fletcher	McMaster	Simmons
Bayard	Frazier	McNary	Smith
Bingham	George	Mayfield	Smoot
Black	Gerry	Moses	Steiwer
Blaine	Glass	Neely	Stephens
Blease	Gould	Norbeck	Swanson
Borah	Harris	Nye	Thomas
Bratton	Harrison	Oddie	Tydings
Brookhart	Hayden	Overman	Tyson
Broussard	Heflin	Phipps	Vandenberg
Capper	Howell	Pittman	Wagner
Caraway	Johnson	Ransdell	Walsh, Mont.
Copeland	Jones	Reed, Pa.	Warren
Couzens	Kendrick	Robinson, Ark.	Waterman
Curtis	Keyes	Robinson, Ind.	Wheeler
Cutting	King	Sackett	
Deneen	La Follette	Schall	
Dill	Locher	Sheppard	

Mr. JONES. I was requested to announce that the Senator from Ohio [Mr. FESS], the Senator from West Virginia [Mr. GOFF], and the Senator from Idaho [Mr. GOODING] are detained in committee.

The VICE PRESIDENT. Seventy-three Senators having answered to their names, a quorum is present.

Mr. JOHNSON. Mr. President, the last of the purposes of the bill which is before us is the subordinate one of power. Not only would it be unwisdom on our part to construct a dam of the character of the dam which is provided for by the bill, but it would be an idiotic policy, only to be followed by those who fawn upon public-service corporations and power lobbies generally, that would preclude us from proceeding to generate electricity on a dam under the circumstances under which this particular structure would be built. To say that we should erect a dam in the Colorado River for the purpose of protecting our people from flood, to say that we should erect a dam in the Colorado River to reclaim and to irrigate hundreds of thousands of acres of land, to say that we should erect a dam in the Colorado River for the purpose of solving an intolerable international condition, and then, with the dam and the means at hand for paying for the entire project, to say that we should not utilize that which was there for us to utilize, would be an economic idiocy of which no independent legislator ever could be guilty.

Here at hand, with the dam contemplated by the bill, are the means of paying every dollar that may be expended by the United States in this great project. I did not have, sir, the temerity to ask the Congress for an appropriation of the amount which is asked by the bill without providing for the repayment of that appropriation. I think that had I come to the Congress some years ago, when first we came with this measure, and had asked an appropriation of $125,000,000 and then said it should come forthwith from the Treasury and that there should be no means of reimbursement of the United States, I would have had proponents neither upon this floor nor in any other part of the city of Washington.

It was essential that the means be provided by our measure to meet the appropriation. Those means are provided. We have only taken what is at our hand in the construction of this great dam. We have only taken that which naturally and inevitably results from the great work, in order to pay the United States Government for its outlay and for its expenditure in behalf of its people and its land.

Of course, here lies the rub in the bill. If there were not any power to be generated at Boulder Dam, if there were not any power to be generated to pay for the project, if we were supinely to say that we would give to everybody who desired it, without any cost to them, all of the profit that might be derived from this great enterprise, there would be an enthusiastic accord in some quarters in behalf of the bill, where now we find a shaking of heads and a doubt of the feasibility of the project. It is so easy to say that a project of this sort "is not feasible" and "it ought not to be attempted," and illustrations galore present themselves to those who doubt and those who fear because private enterprise is not reaping the profits of a great public undertaking. So I have seen lately, sir, some ghouls of the press and others telling what a dreadful example is before the Congress in this bill in view of the disaster that occurred in the San Francisquito Canyon, with a dam that was erected by the city of Los Angeles. I have read some articles and heard some people say, "This is an enterprise upon which the Government should not start; it should never engage in this sort of undertaking because of the disaster that occurred in the San Francisquito Canyon to a dam that was erected by a municipality." That argument—that sort of stuff some gentlemen who are ever prating of private initiative have the temerity to indulge in upon this measure.

Here is a dam which will be the highest in the world. Does any one say we can not build it and that those who represent the Reclamation Service are not able to construct it? I deny it. Here is a dam that the United States itself would build in the Colorado River at Boulder or at Black Canyon, a dam 550 feet in height, higher than any other dam on the face of the earth, with a storage capacity back of it greater than any storage capacity ever before so created in a storage capacity of 26,000,000 acre-feet—a 550-foot dam, 26,000,000 acre-feet in storage, a lake 90 miles long—and this is to be built by the United States of America.

The Reclamation Service of the Government is an organization of a quarter of a century's standing. It is provided by congressional act. It specializes in the construction of works for irrigation purposes. It is the largest, most efficient, and most successful organization of its kind in existence. It has built approximately 100 dams, some of them among the highest and largest in the world. Its engineering corps represents a body of capable and experienced men who are expert in every sense of the word. They are hired and paid by the Government of the United States. They are in the Federal service because of demonstrated ability in the line of engineering. They have shown themselves worthy of the confidence of the Government and of the country. They will do the job.

Notably among the higher dams built by the Reclamation Service are the following: The Arrowroot in Idaho, 349 feet in height; the Elephant Butte in New Mexico, 306 feet in height; the Roosevelt in Arizona, 280 feet in height; the Shoshone in Wyoming, 325 feet in height. These are all works of the United States Government, built by the Reclamation Service. The Reclamation Service and the United States Government say that this is a feasible project, and that this dam at the particular locality can be built exactly as we contemplate, and it is the United States Government that will go ahead with the job.

Some of our brethren say, "Oh, the demonstration that the Government can not do it is found in the recent disaster in the San Francisquito Canyon Dam, because, forsooth, that dam

was owned by a municipality, and being owned by a municipality it is evident now that neither municipalities nor States nor the Nation itself can build an enterprise or a structure of this kind."

Power we expect to generate here at this dam—to generate it because we have the market for power. There in that territory we have this market in the requirements of pumping a supply of domestic water that is to be given to the coastal cities of southern California. The water must be pumped 1,500 feet over the mountains, and in order to do that some 300,000 horsepower of electricity must be utilized; and there is only one place where that can be obtained, and that is from the power generated at the Boulder or the Black Canyon, under this bill.

So the market for power is there; and the market for power being there, the people to pay for it being in existence, there is no question on earth—differing from every other measure of this kind that has ever been presented—but that the United States Government will receive every penny and every dollar that it shall expend or for which it shall contract under this bill.

Now, let us turn for a moment, if you please, to the bill itself; and hastily I want to go through its sections, so that we may have some adequate understanding, or that there may be some explanation from me, at least, in the RECORD concerning the provisions of the bill.

In section 1 the purposes of the measure are stated:

> For the purpose of controlling the floods, improving navigation, and regulating the flow of the lower Colorado River, providing for storage and for the delivery of the stored waters thereof for reclamation of public lands and other beneficial uses exclusively within the United States, and for the generation of electrical energy as a means of making the project herein authorized a self-supporting and financially solvent undertaking.

For these purposes the Secretary of the Interior, subject always to the terms of the Colorado River compact—

> is authorized to construct, operate, and maintain a dam and incidental works in the main stream of the Colorado River adequate to create a storage reservoir of a capacity of not less than 20,000,000 acre-feet of water, and a main canal and appurtenant structures located entirely within the United States.

All, you will observe, subject to the Colorado River compact.

Mr. President, let me pause for a moment to speak of the Colorado River compact.

The Colorado River makes, in its peculiar meanderings, two basins, termed the upper and the lower basins. In the upper basin are embraced the States of Wyoming, Colorado, New Mexico, and Utah. In the lower basin are embraced the States of Arizona, Nevada, and California. Some years ago—six, indeed, to be accurate—there were meetings held which finally resulted in the execution of what was termed the Colorado River compact. I will not in detail explain now exactly the provisions of that compact. Suffice it to say that it sought to divide at a place called Lee Ferry, between the upper and the lower basins, or to allocate as between the upper and the lower basins the waters of the Colorado River.

Thereafter the compact was not ratified. It may have been the fault of one State or another. It is immaterial for the moment, in the course of this argument, whether it was the fault of one or another, two, three, four, or five States, as the case may be. It stands to-day unratified; and the compact to-day is ineffective as among the States because of that lack of ratification.

Now, let me point this out to my friends of the upper-basin States: You say to me that you are willing that we should have this bill if all seven States ratify the compact. I assume you say that. I do not say that you do, sirs; but let us assume that you do. That means that one State that does not desire to ratify the compact—and that one State of that sort exists can not be denied at all—that one State, then, refusing to ratify the compact, can forever prevent the realization of the hopes of the people of southwestern United States for the control of the Colorado River. You say to me in effect, when you say that, "We would rather the water of the Colorado would go to waste in the sea than that you should have a measure of protection such as is given by this bill"—a full measure, in my opinion. You would rather it would go to the sea than that there should be any legislation for the protection of 65,000 American people, or any legislation for the purpose of preventing the intolerable conditions that now exist.

Let us see where you go in this attitude.

Western water law is a different thing from the doctrine of riparian rights. In the West, to put it crudely, the law is that the first appropriator in point of time who puts water to a beneficial use has the right to that water. Title to water in the West is obtained by virtue of appropriation to a beneficial use. Where is this water being put to a beneficial use to-day, and where is the only place that it can be put to beneficial use? Mainly in the State of California.

I wish that there were no shadowy border lines, no shadowy lines of demarcation, between the States, so that we would not have our difficulties between States. They are all peoples, and they are all people of the United States and citizens of the United States; and to say that an arbitrary line that may cleave some man's ranch shall leave him, on one side of it, to the mercies of the Colorado, and, on the other side, in a situation where some States must adopt a seven-State compact, or he must be drowned out ultimately, is an injustice that ought not to be tolerated, and that Congress ought not to tolerate.

We write this bill around the compact. We incorporate in it the very amendments that were presented by the upper-basin States. The amendments that are in the bill that refer to the Colorado River compact were written by the men of the upper-basin States, and inserted at their request; and in every conceivable fashion that the upper-basin States can be protected, in every way in which we can make this scheme and the lands that are watered by the Colorado, from the storage and the regulated flow of that river under these works, subject to the Colorado River compact, we have done it in this bill.

What a travesty it is for these people from the upper basin States to say to us, "You must give us a seven-State compact or you never can get relief, and the Colorado River will never be harnessed." Even though we be destroyed, into this bill has been written every single, solitary, conceivable provision that will protect the Colorado River compact and the upper basin States.

The land that will be reclaimed and will utilize the waters of the Colorado belongs to the United States, and so we have impressed upon those waters that will be stored by the United States Government the Colorado River pact—impressed it so that they can only be used in accordance with the Colorado River pact; and everything has been done in this bill that it is possible to do, even to writing in an amendment at the instance of the Senator from Wyoming by which California binds herself for all time never to utilize more than 4,600,000 acre-feet, the maximum that she may utilize in all the years to come. So we have done all that we could in order to protect the other States and in order to protect the Colorado River compact and to write it into the bill.

You will observe in the first section of this bill that the right is given to the Secretary of the Interior to construct, not only the dam and the incidental works creating a storage capacity of at least 20,000,000 acre-feet, and to construct the all-American canal from the Laguna Dam to the Imperial and the Coachella Valleys, but also he is given the power to construct a plant for the development of electric energy.

Let me tell you how these provisions for the construction of a power plant by the Government came to be inserted in this bill.

This bill has been pending so long that I hesitate, sir, to give dates in regard to what may have transpired in respect to it; but I am sure I am well within the fact when I say that some two and a half years ago the Interior Department recommended an amendment in this bill, which was inserted at the request in writing of the Interior Department. The Interior Department requested that there should be written into this bill the option or the right of the Government to construct a plant for the generation of electricity. It was asked by the Secretary of the Interior upon several grounds. I speak now from recollection, but I think I speak with accuracy. It was asked, first, because the topography of the country was such that the privilege to utilize the water at the dam for the generation of power, if granted to one person or interest, could not be accorded to another. That was because of the topography of the country. Next, he said it was essential, in order that the United States Government should be protected in a scheme so large as this, that the Government should have, as it were, the whip hand in dealing with the great power problems.

It was necessary, too, in order that there should not be the possibility of monopoly in the matter of power privileges; and, generally, it was desired so that the Government might be protected. It was a protective measure only. It was not required to be constructed by the Government. It was simply a right, a privilege, or an option which might or might not be exercised in behalf of the Government.

Now, I confess to you very readily, and I would not have anybody misunderstand me in that regard at all, that there are no terrors for me in Government ownership; and no fear

have I of a municipally owned or a Government-owned electrical generating plant. That, however, is apart from this question. This bill does not take the Government into the electrical business. The reason that is given for the opposition of the Power Trust to this bill, sir, is that it takes the Government into the power business. It does not do anything of the sort. It gives the Secretary of the Interior the option, if he deems it necessary to exercise that option, to erect a generating plant; but it is a protective measure alone, and the ultimate determination of whether or not he will do it will rest with the Government of the United States. It strikes me that some of these gentlemen express very little confidence in the words that are uttered by some of those in power to-day when they say that they will not permit, in a bill of this character, even an option by the Government of the United States to erect a power plant or a generating plant at Boulder Dam.

The alternatives are accorded in this bill of leasing the water for power, or, if a plant be created, of leasing units of the plant, or the Government's operating the plant; but the alternatives are alternatives that in the discretion of the Secretary of the Interior and the administration may be exercised or not, as the Secretary and the administration shall deem best for the best interests of the Government.

I make this as plain as I am able to make it because of the repeated statements that have been made concerning this bill and the design of its authors. The provision was inserted in the bill, first, at the direct instance of the Secretary of the Interior of this Government itself; and, in the second place, the provision which is complained of so bitterly by those who are in private business is one of which they have no right to complain, because the provision is one that is optional with the Secretary of the Interior and the United States Government and may or may not be exercised as the Secretary or the Government may elect in the days to come.

That is all there is to the provisions in this bill that have resulted in the printing of those beautiful brochures at a cost of $7,500, paid to a distinguished ex-ambassador of the United States, that have been distributed all over our country by distinguished gentlemen in Washington who have just related the fact. That is all there is to the provision in this bill which, it is asserted, of course, is socialistic in character, taking the Government into business, and the like—no more than that; that and that alone. And when these gentlemen come to oppose this bill and to tell of its iniquities I want to know where they find anything else or what there is in this bill upon which the wildest advocate of profit making out of Government can say there is something done against private enterprise or against private business.

Section 2 of the bill, sir, contains the financial features. These were furnished by the Secretary of the Treasury. I assume, therefore, they will meet with an enthusiastic reception even from the opponents of the measure. They were written into the bill at the suggestion of the Treasury Department.

Section 3 of the bill provides for the appropriation for the proposed project, and on this point let me explain a word.

The appropriation that is authorized is stated in the bill as $125,000,000. That, sir, is, after all, a bookkeeping transaction, for included in the appropriation of $125,000,000 are $21,000,000 interest and the construction of a generating plant by the United States Government.

Eliminate the interest, and eliminate the construction of the power plant, and the amount of the appropriation authorized would then be $72,000,000; that, and that alone. So keep that in mind in considering the amounts that are to be appropriated ultimately from the Treasury.

Section 4 is a provision that was inserted at the instance of the upper basin States; to preclude anything being done until there should be a ratification by six of the Colorado Basin States. It is bad enough to require that of us in a measure of this sort, with the protection this bill throws around the Colorado River compact; but think of it, they require that six States of the Colorado River Basin shall ratify the compact before anything shall be done under this bill. It leaves but one State, then, which may or may not be recalcitrant; but if six States ratify the Colorado River compact with the other provisions of the bill protecting that compact and the upper basin States, we are permitted to proceed.

Subdivision (b) of section 4 is the most rigorous provision that ever was inserted in a measure of this character. I have referred to it and recurred to it once or twice to-day, but permit me to read it so that the few who are here may understand it.

Before any money is appropriated—

Follow me—

Before any money is appropriated or any construction work done or contracted for—

Do Senators follow me? You can neither have an appropriation nor any work done nor any work contracted for—

the Secretary of the Interior shall make provision for revenues, by contract, in accordance with the provisions of this act, adequate, in his judgment, to insure payment of all expenses of operation and maintenance of said works incurred by the United States and the repayment, within 50 years from the date of the completion of the project, of all amounts advanced to the fund under subdivision (b) of section 2, together with interest thereon, made reimbursable under this act.

There never was an act presented to the Congress of the United States of this character before, where there was inserted such a rigorous provision for repayment. Neither appropriation can be made nor work done nor contracted for until the Secretary of the Interior has in his power and under his hands contracts for reimbursement to the Government of every penny that may be put out and every dollar that may be expended.

There is another provision that was added by the committee as an amendment to the bill, that—

If during the period of amortization the Secretary of the Interior shall receive revenues in excess of the amount necessary to meet the periodical payments to the United States as provided in the contract, or contracts, executed under this act, then, immediately after the settlement of such periodical payments, he shall pay to the State of Arizona 18¾ per cent of such excess revenues and to the State of Nevada 18¾ per cent of such excess revenues.

The committee added this amendment because the committee thought that something was being taken in the nature of a resource from Arizona and from Nevada by the construction of the dam in the Colorado River, and that there should be some recompense to those States, or some revenue should be derived by them from that construction. The committee selected the rule which now prevails in the oil leasing law, and in one other act as well, for the percentage that was accorded under that amendment.

Section 5 provides that the contract must be general for storage and delivery of water and the Secretary shall fix charges to meet the revenue requirements, and that contracts for irrigation and domestic uses must be for permanent service. An amendment has been inserted there at the request of the upper basin States, offered, I think, in the committee, by the Senator from Wyoming, which provides that—

Provided, however, That said contracts shall not provide for an aggregate annual consumptive use in California of more than 4,600,000 acre-feet of the water allocated to the lower basin by the Colorado River compact mentioned in section 12 and one-half of the unallocated, excess, and/or surplus water: *Provided further,* That no such contracts shall be made until California, by act of its legislature, shall have ratified and approved the foregoing provision for use of water in said State.

That is another rigorous provision, a rigorous provision to which those who represented California were willing to consent in order that legislation might be accorded, but binding California perpetually and forever to a use not to exceed 4,600,000 acre-feet of water.

I repeat and repeat how we have endeavored to protect these upper basin States. We write the bill around the compact, we make every drop of water that comes from the storage and the regulation of the Colorado River under this scheme subject to the compact. We write, then, that California shall use perpetually only a specific amount of water, naming the maximum amount which may be used.

All these things are done in the good-faith endeavor to protect in every possible way the States of the upper basin and those who claim that they want protection under the Colorado River compact. Yet some of them would prefer to let this water continue to flow down to the sea for an indefinite period, to go to waste in the Gulf of California, the land remain in drought to the detriment of people in southern Arizona and southern California, to permit that to be done indefinitely, rather than to permit the measure of protection—and it is a full measure of protection that is accorded them—under this bill.

What more can be done, I do not know. Somebody says that California is taking something from somebody else. California is "paying through the nose" for everything that it does under this bill and for everything that is asked; and the men who live in the Imperial Valley, the women there who have helped to pioneer the way, and who have carved out of that desert a beautiful empire, the children who are in the Imperial Valley, are entitled to some consideration from the Congress of the United States, as well as those individuals who insist that profit shall be made out of a great national undertaking.

I submit, sir, that under the provisions which have been written in this measure at the instance of the Senator from

Wyoming, under the provisions all through this bill by which we take care of the Colorado River compact, remembering that practically all the land there upon the banks of the Colorado River is land that is owned by the United States of America, from the site of the dam practically down to the international boundary; remembering all that, how can it be said that there is any State in the upper basin or any other place that is not amply protected by the provisions of this bill?

In addition to that, yielding to the demands that have been made that profit and revenue should come from this measure, the Committee on Irrigation and Reclamation has accorded them the same percentage of profit that is accorded in the existing laws to-day, and they have done it on a project that is paid for by the United States of America in the first instance and that is paid for by the people of California in the second instance. I do not complain of it, but I do complain when any men here say that the upper-basin States are not protected or that we have taken something that does not belong to us. Here we have done everything that can be done by a people in order to have their protection and to give them what they are entitled to.

Ah, you will see in the days to come what will happen in that river if no protection be accorded those people and the appropriation law of the West be permitted to obtain. Then will be demonstrated the utter futility of the position that is now maintained by some.

I follow along with this bill:

After the repayments to the United States of all money advanced, with interest, charges shall be on such basis and the revenues derived therefrom shall be disposed of as may hereafter be prescribed by the Congress.

During the process of amortization there is 37½ per cent of excess profits to be divided between Arizona and Nevada, and the rest of the money is devoted to amortization. After amortization, then the Congress of the United States shall determine exactly what shall be done. General and uniform regulations, of course, shall be prescribed for awarding contracts.

In subdivision (a) of section 5 there is an amendment that was presented by the committee, which provides for readjustment of rates after the expiration of 15 years and every 10 years thereafter. That legislation is provided for in order that the rates may be kept at a proper level, and in order that the legitimate profits under the preceding amendment may be received by the States of Arizona and Nevada.

The readjustment serves another purpose, too. It serves the purpose of not endeavoring to destroy any enterprise which may be in the power business with which this power might come in conflict. I do not believe for an instant that it will. The rapidity of growth in southern California, the growth that probably may occur in other States as well, will create a power market there that will unquestionably absorb without difficulty in the various periods that extend over the time of construction all of the power that will be generated at the Boulder Dam; but in order that there may be the readjustments properly made at the end of certain periods, the amendment to which I have referred has been inserted.

Subdivision (b) of section 5 is really a part of the Federal water power act.

Subdivision (c) of section 5, on page 9, provides for contracts for the use of water and necessary privileges for the generation and distribution of hydroelectric energy or for the sale and delivery of electrical energy.

Then an amendment was inserted by the committee by which preference to electrical energy was accorded, in the first instance, to States, next to municipalities, then following the line of preferences of the Federal water power act, and the States of Arizona, Nevada, and California are allowed equal opportunity as applicants for power.

Subdivision (d) is a provision for joint transmission. An amendment was inserted to that which will probably remove the objection which has been voiced heretofore to it, but, at any rate, it was a provision under which a like agency contracting for a small amount of power might hook on, as it were, to a larger agency, with a large amount of power, provided a proportionate amount of the cost of construction and the like were paid by the smaller agency, and provided also that within 60 days after the larger agency acquired its privilege, the smaller agency gave notice. The reason for the insertion of that provision originally was, I think, that some of the smaller cities of southern California, feeling that the larger cities might obtain all of the power from the Boulder Dam project, wanted to be able to use the lines as joint transmission lines to the extent indicated by the amendment.

Section 6 defines the uses of the dam, as follows:

First, for river regulation, improvement of navigation, and flood control; second, for irrigation and domestic uses and satisfaction of present perfected rights in pursuance of Article VIII of said Colorado River compact—

That is the compact, and written from the compact—

and third, for power. The title to said dam, reservoir, plant, and incidental works shall forever remain in the United States, and the United States shall, until otherwise provided by Congress, control, manage, and operate the same, except as herein otherwise provided—

And here is the optional provision that the Secretary of the Interior may lease the power or lease the water:

Provided, however, That the Secretary of the Interior may, in his discretion, enter into contracts of lease of a unit or units of any Government-built plant, with right to generate electrical energy, or, alternatively, to enter into contracts of lease for the use of water for the generation of electrical energy as herein provided, in either of which events the provisions of section 5 of this act relating to revenue, term, renewals, determination of conflicting applications, and joint use of transmission lines under contracts for the sale of electrical energy, shall apply.

Let me repeat what that is, because that is one of the provisions to which exception has been taken in the past. There is the alternative given to the Secretary of the Interior to lease a unit or units of a Government plant or to lease the use of water for the generation of electrical energy. The two alternatives are given to the Secretary of the Interior, and he may exercise either of those alternatives.

Certain gentlemen, swollen with the power of their wealth and of their great combinations in this country, say that that sets a precedent, and that the United States Government should not be permitted to have any such precedent, a precedent by which, in order to carry out the greatest scheme that there is of this character in all the world, the United States Government is given the right either to lease units of water or units of a Government-constructed plant, merely the right to do either one or the other, and some of these gentlemen who are opposing this bill outside of this Chamber are taking exception to any provision by which the Government may be given any kind of an option to protect itself or its people; and they say that a precedent of that sort shall not be established.

This is one of the matters on which this Government must take its stand and on which the Senate must take its stand. The Senate must determine whether or not it dare give to its own Government the alternatives and the right that would be given to any individual in a private transaction, or whether it will yield to the demand or the threat that may be made by private enterprise or by great wealth in relation to a measure of this sort.

That is one of the things that we should determine on the bill and one of the things that makes it such a peculiarly obnoxious bill in the view of certain individuals.

Section 7 gives to the Secretary the discretion to convey the canal to interested districts when it shall have been fully paid for. Section 7 also gives to those who pay for the canal the right to generate power upon it. This is a matter of little consequence, trivial in character, but the payment for an all-American canal which will be charged against the land which abuts on the all-American canal is going to be a very burdensome and very difficult thing; so the bill wisely provides, just as the reclamation law provides to-day, and just as is being done upon the Salt River project, and every other reclamation project of the United States Government, that those who pay for the canal, who own the lands adjacent to it, may have the right to generate the little amount of power that the fall may give to them; a perfectly legitimate and perfectly just provision.

Section 8 is entirely an upper basin amendment. I would like the attention, for just an instant, of the Senator from New Mexico [Mr. BRATTON]. I want to call his attention to the fact that in paragraph (a) of section 8 again we endeavor to protect the upper-basin States, and this is one of the amendments written by the upper-basin States:

The United States, its permittees, licensees, and contractees, and all users and appropriators of water stored, diverted, carried, and/or distributed by the reservoir, canals, and other works herein authorized, shall observe and be subject to and controlled by said Colorado River compact in the construction, management, and operation of said reservoir, canals, and other works and the storage, diversion, delivery, and use of water for the generation of power, irrigation, and other purposes, anything in this act to the contrary notwithstanding, and all permits, licenses, and contracts shall so provide.

Mr. PHIPPS. Mr. President, will the Senator yield?

Mr. JOHNSON. Certainly.

Mr. PHIPPS. Would the Senator object if I should ask for a quorum?

Mr. JOHNSON. No; I do not wish it at this time.

Mr. PHIPPS. It will only take a few moments and will rest the Senator.

Mr. JOHNSON. No; I am almost through. I would rather the Senator would not do it. I want to express my appreciation, but I would rather the Senator would not do it in this instance.

Mr. PHIPPS. Very well.

Mr. JOHNSON. Mr. President, it will be observed that paragraph (b) of section 8 was written in originally to provide possibly for a three-State compact in the lower basin, something I have not heard much about of late, and I do not know whether there is any possibility ultimately of it coming about.

Paragraph (c) of section 8 is a provision simply that "nothing in this act shall be deemed to waive or change any of the rights or powers reserved or granted to the United States" by the act providing for the admission of Arizona or by the constitution of Arizona. Upon that provision I presume our friends from Arizona will have something to say, and I shall be very glad then to respond. At the present time suffice it to say that, while I do not think the bill in any respect could affect the constitution of Arizona, either as adopted originally or as existing to-day, nor do I think it could affect in any fashion the enabling act, still some of those interested in the bill believe that as a precautionary measure, because there had been a change in the constitution of Arizona, this protective provision should be inserted in the bill. Personally I do not consider it of any very grave consequence.

Section 9 withdraws, very properly, the public lands susceptible of irrigation and reclamation under the works here provided for from entry. That is done for the very purpose of preventing what one newspaper at least, through its hired writers, has been accusing us of. It is done for the purpose of preventing any speculative scheme in real estate, so that there can be no individual, no syndicate, or others who will be able to gobble up land in the vicinity of this territory, land which is held by the United States—to gobble it up at a small fraction of its real worth, and then coin it by virtue of these works. All the land belonging to the United States is withdrawn under this provision from entry, and that is the answer to certain articles which have recently appeared in relation to the measure and the design of the bill.

Section 12, it will be observed, binds the United States with the Colorado River compact. As if that were not enough, in paragraph (c) we find all grants, concessions, and so on, bound with the Colorado River compact. We impress everything that is done under this measure with the Colorado River compact. Nothing that is undertaken, nothing that is designed, no place where it is possible to render any measure of protection, is excepted from the compact. The design has been to protect as best we could that compact which has no value whatsoever, so far as California is concerned, save there be storage in the Colorado River, and storage of the character that is indicated under the measure.

So much, sir, for the provisions of the bill. I have spent more time than I intended to do to-day in presenting the bill. I shall close now in a moment.

Here is a measure that means much to our people. Here is a measure—I do not care what may be said of it—that also means much to the other States which are a part of the Colorado River Basin. Here is a measure, sir, that means the rescue of 65,000 Americans in the Imperial Valley. Here is a measure, sir, that means the solving of an international problem which may involve the ultimate destruction of the most fertile part of the United States to-day, a section with productive capacity unsurpassed in all the Nation.

Here is a measure, sir, that is the greatest of our generation, a measure to authorize a work for which any man might well be proud to assist in enacting the necessary legislation. Here, sir, is our Government constructing the greatest dam ever yet constructed. Here, sir, is our Government providing a reservoir with a storage capacity greater than any that exists in all the world. Here, sir, is our Government doing the job for its people.

To deny this legislation, sir, is to deny justice to the people affected. To deny it, sir, is to deny that which is the right of those who live upon the Colorado River and those who live in the Imperial Valley. To deny it, sir, is to deny the thrill that comes to a man in legislative halls but once or twice in his lifetime, the thrill when he stands as part of a great constructive work, for this is the greatest constructive work in all our generation.

Mr. PITTMAN. Mr. President, I would like to ask the Senator from California, in charge of the bill, whether he will pursue the ordinary practice of considering committee amendments first. If that is going to be the practice, I would like to know if he would object to considering first the two material amendments, which are companion amendments, found on page 6 and page 9. They are two material amendments made by the committee, and I would like to have those discussed first, because I want to discuss them when the time comes.

Mr. JOHNSON. Personally, I have no objection at all. First of all, let me say that my intention is to do exactly as is suggested by the Senator from Nevada—that is, to have the bill read for action upon committee amendments first. However, the amendments preceding that, it strikes me, are very brief and, although I am not clear, I think they will lead to little discussion because of the sources of the amendments.

Mr. PITTMAN. The only reason why I made the suggestion is that I was asked if I would request that those two amendments be considered first and then go back to the others.

Mr. JOHNSON. We might try out the first amendments, and if we find that they are going to take a long time, I would be willing to adopt the Senator's suggestion. I have no objection to it, I am sure. The Senator will observe that the amendments which are presented in the first pages up to that point are all amendments which, I think, were unanimously agreed upon in the committee. I may be in error in that, but that is my recollection. The first amendment to which the Senator refers and upon which he wishes action taken is that on line 5, page 6, is it not?

Mr. PITTMAN. Yes.

Mr. JOHNSON. If the Senator will look at the amendments prior to that he will see that the other amendments are amendments which were adopted with substantial unanimity up to that point. I thought we might run over them and have them agreed to and then take up the amendment on page 6, line 5. May I inquire of the Senator from Arizona [Mr. ASHURST] if that is not accurate?

Mr. ASHURST. Mr. President, I beg the Senator's pardon. I was not listening. I have been listening to the Senator for a couple of hours, but I turned aside for the moment.

Mr. JOHNSON. I was just announcing to the Senator from Nevada that the amendments which precede the first amendment to which he refers on page 6, line 5, are amendments which were adopted with substantial unanimity in the committee and that probably there will be no objection to them.

Mr. ASHURST. I hope the Senator will not ask me to agree to a date for my own execution or to agree to anything regarding the details thereof.

Mr. JOHNSON. Very well. I do not ask the Senator to do anything.

May I suggest to the Senator from Nevada that we undertake to act on the first amendment and then, if there is objection or if there is going to be any extended argument, I shall follow the course he suggests?

Mr. PITTMAN. I was only suggesting it in the hope of getting a unanimous-consent agreement.

Mr. JOHNSON. I will leave it to the Senator from Nevada to get an agreement with the Senator from Arizona.

Mr. PITTMAN. Mr. President, I ask unanimous consent that the committee amendments be first acted upon, and that the first two committee amendments which are to be acted upon shall be the amendments found on page 6, lines 5 to 13, inclusive, and on page 9, lines 12 to 19, inclusive, and that thereafter we shall return to take up the committee amendments in the regular order.

Mr. SHORTRIDGE. Mr. President, may I ask the Senator from Nevada the reason for this request?

Mr. PITTMAN. I am trying to get a unanimous-consent agreement.

Mr. SHORTRIDGE. I understand; but will the Senator have the kindness to state the reason why he asks it?

Mr. PITTMAN. I think we will be more apt to get a unanimous-consent agreement. That is the only reason.

Mr. SHORTRIDGE. I might suggest that he assign some reason for asking it.

Mr. PITTMAN. The reason is because I think there would not be any objection in that form. I suspect there would be objection in another form. That is the only reason.

Mr. JOHNSON. Is it the idea of the Senator from Nevada that the amendments, slight in character, in the first part of the bill, be passed over? For instance, here is one relating to "stored waters." I recall distinctly that that amendment was suggested by the Senator from Arizona. The amendment found in line 13, page 2, is an amendment of the Senator from Arizona and we all agreed upon it. Those are the only two in reality I believe that precede the amendment to which the Senator from Nevada has called attention. No; there is another one about the five-State ratification.

Let us start with the first amendment. If there is going to be great delay over those slight amendments in the beginning, then I shall adopt the Senator's suggestion if he desires.

Mr. PITTMAN. I withdraw my request. I will let the Senator make his own request.

Mr. CURTIS. Mr. President, unless some Senator desires to proceed to-night, I should like to ask for a short executive session.

Mr. ASHURST. Mr. President, the poison should not go into the RECORD without an antidote, so I must ask the Senator's indulgence for a few moments only.

I listened with attention to the able Senator from California. An experience of some years in the Senate has convinced me that whenever a Senator indulges copiously in overemphasis, he is either a weary man, he does not understand his subject, or is too indolent to make himself familiar with the subject. We know that the Senator from California is not an indolent man, but one of the most industrious men that ever served the State. We know that he comprehends thoroughly a subject to which he gives his attention. Therefore, his overemphasis can be explained only upon the hypothesis that he is a weary man.

The Senator said the seven-State compact had not been ratified, and that he proposes in this bill to proceed with the distribution of the waters of seven States by a six-State ratification. He disregards the Federal Constitution and does not give it the cold respect of a passing glance. I shall do no more this evening than summon a witness and read from his testimony, not a witness from Arizona, because he, forsooth, might be construed as a biased witness. I shall read from the testimony of Governor Dern, of Utah, before the House Committee on Irrigation and Reclamation on January 11, 1928.

Mr. KING. Mr. President, will the Senator yield?

Mr. ASHURST. Certainly.

Mr. KING. I understood the Senator to state that the Senator from California intended to proceed with a six-State compact regardless of the fact that the compact calls for seven. My understanding of the bill is that if there shall not be six States to ratify the compact, nevertheless the Government will proceed with five States, and if there should not be five States ratifying the contract, it will proceed with a less number. I did not want the record, if I was right, to stand that the Senator from California intended to have six States ratify the contract as a condition precedent to the prosecution of the work called for by the bill.

Mr. JOHNSON. Mr. President, I do not wish to interrupt the Senator from Arizona unduly, but am I to understand the Senator from Utah to say that the bill provides for a six-State and then a five-State, and then a four-State ratification?

Mr. KING. My understanding of the bill is that if there shall not be a ratification of the contract by seven States, then the prosecution of the work shall nevertheless be carried forward. If there shall not be a ratification by six States, then the prosecution of the work may go on with a less number. My understanding is that it is not limited to a given number of States.

Mr. JOHNSON. The Senator is in error.

Mr. KING. I hope I am.

Mr. JOHNSON. I will show the Senator the bill subsequently.

Mr. ASHURST. Mr. President, I invite the attention of Senators to the following testimony respecting this bill or its companion bill pending before the House of Representatives.

I read from page 220 of the hearings before the House Committee on Irrigation and Reclamation on H. R. 5773, held on January 11, 1928:

Governor DERN. I am not unaware of the ingenious arguments that are put forth to show that by special protective clauses in the bill Arizona is going to be prevented from injuring us. Most of these arguments are not only ingenious but also ingenuous. They all involve the idea that the United States shall descend to the level of coercing a sovereign State to do something that it does not want to do and that it is under no legal obligation to do. I can not conceive that the United States would ever invoke such a power, even if it possessed it. For example, it is pointed out that the bill contains a clause that will prohibit Arizona from running canals, ditches, or transmission lines over public lands in Arizona until she has ratified the compact. Wouldn't that be a fine, high-minded thing for the United States to do? I am not specially interested in Arizona, but I am interested in common decency and in protecting the integrity of the States, and I confess that my blood boils at the suggestion that the United States should shove a contract under Arizona's nose with the mandate to sign on the dotted line or be ruined. * * * Arizona has not offended the United States and has earned no punishment from the United States. She is strictly within her legal rights in failing to ratify the Santa Fe compact.

I hope and pray that she will ratify it, and I believe she will. I have been doing everything I could to get her to do so. I believe the compact is as fair to Arizona as it is to Utah, and Utah has ratified. It seems to me that it would be to Arizona's advantage to ratify. But if she does not think so, certainly we can not force her. And when it comes to the Government of the United States coercing her, as is proposed in this bill, I wonder that there has not arisen in the Halls of Congress a man big enough to expose and denounce this shameless suggestion as it deserves.

Mr. KING. Mr. President, my attention has been called to a print of the bill which I had not seen. I had in my office the print which called for a ratification by California and five other States.

Mr. JOHNSON. Yes; that is all. It calls for a ratification by six States; nothing else.

Mr. KING. In the print now before me the word as it was originally printed was "three." That has been stricken out and "five" inserted.

Mr. JOHNSON. Correct.

Mr. KING. So that it now calls for ratification by six States.

Mr. BRATTON. Mr. President, I understand that it is the purport of paragraph (a) of section 4 as well as paragraph (a) of section 12 that nothing shall be done under the act until the State of California and at least five other States have ratified the compact.

Mr. JOHNSON. Exactly. Yes, sir; much as I regret it, those are the provisions of the bill.

EXECUTIVE SESSION

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened, and (at 4 o'clock and 28 minutes p. m.) the Senate adjourned until to-morrow, Friday, April 27, 1928, at 12 o'clock meridian.

CONFIRMATION

Executive nomination confirmed by the Senate April 26, 1928

POSTMASTER

MAINE

G. Walter Akers, Kents Hill.

HOUSE OF REPRESENTATIVES

THURSDAY, *April 26, 1928*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Our Father who art in heaven, hallowed be Thy name. Just now may there be an altar in every breast and at each altar a bowed soul breathing the spirit of devotion, confession, and thanksgiving. Here may our thoughts and purposes receive their sustaining power, and thus shall our ministrations be raised to higher efficiency. O God of love, upon our hearts is the memory of him who sailed afar from home and country, forgetting that he was weary and wayworn. His heart was tuned not to the broken noises of earth but to the rhythm of the divine law of brotherhood. We had been bending our ears to hear the coming song of deliverance. But alas! alas! now is brooding the minor strain of the eternal order. O harbinger human and divine! He has outridden the clouds and storms, and his sun which has set at high noon has arisen to the height of endless day. Amid the fates that gape to swallow up our loves, we praise Thee for that love that gathers up the raveled friendships of time and makes whole again the rents of earth. God abide with the afflicted and sorrowing ones. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed without amendment a bill of the House of the following title:

H. R. 11764. An act conferring jurisdiction upon the Court of Claims of the United States or the district courts of the United States to hear, adjudicate, and enter judgment on the claim of A. Roy Knabenshue against the United States for the use or manufacture of an invention of A. Roy Knabenshue, covered by Letters Patent No. 858875, issued by the Patent Office of the United States under date of July 2, 1907.

The message also announced that the Senate had passed, with amendments, in which the concurrence of the House of Repre-